

offering sheet filed by Johnston Company, Incorporated, on the 30th day of July 1936 covering a certain royalty interest in the property described therein as Stanolind Sarkey A & B Farms is incomplete or inaccurate in the following material respects, to wit:

1. In that in Division III no data is given to indicate the comparability of this tract to the stated general average production of Wapanucka Lime, nor authority for the claim of figure of 4,000 bbls. per acre.

2. In that in Division III no data is given to indicate the comparability of this tract to the stated general average production of Cromwell Sand, nor authority for the claim of figure of 6,000 bbls. per acre, nor is there any showing that the Cromwell Sand is productive in the Fish Pool.

3. In that in Division III no data is given to indicate the comparability of this tract to the stated general average production of Viola Lime, nor authority for the claim of figure of 4,000 bbls. per acre.

4. In that several important factors have been omitted in making comparison of Wilcox with the Little River and East Little River Pools in Division III.

5. In that no reasons are given for assuming in Division III that the undrilled locations will be productive.

It is ordered, pursuant to Rule 340 (a) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the effectiveness of the filing of said offering sheet be, and the same hereby is, suspended until the 4th day of September 1936; that an opportunity for hearing be given to the said Johnston Company, Incorporated, for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be incomplete or inaccurate, and whether the said order of suspension should be revoked or continued; and

It is further ordered, that Charles S. Lobingier, an officer of the Commission be, and he hereby is, designated as Trial Examiner to preside at such hearing, to adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to such offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that the taking of testimony in this proceeding begin on the 20th day of August 1936, at 11:00 o'clock in the forenoon of that day at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said officer may designate.

Upon the completion of testimony in this matter the officer is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 1603—Filed, August 6, 1936; 12:53 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of August A. D. 1936.

IN THE MATTER OF SUPREME OIL, INC., OFFERING SHEET OF A ROYALTY INTEREST IN SINCLAIR-PRairie-SHARP FARM

SUSPENSION ORDER, ORDER FOR HEARING (UNDER RULE 340 (A)) AND ORDER DESIGNATING A TRIAL EXAMINER

The Securities and Exchange Commission, having reasonable grounds to believe, and therefore alleging, that the offering sheet filed by Supreme Oil, Inc., on the 30th day of July 1936, covering a certain royalty interest in the property de-

scribed therein as Sinclair-Prairie-Sharp Farm is incomplete or inaccurate in the following material respects, to wit:

1. In that Item 16 (a) (111), Division II, states that water in production will be set forth later, but it is not.

2. In that April and May 1936 production in Item 16 (c), Division II, is incorrect.

3. In that numerous items in Column (d), Item 16, Division II, are miscalculated.

4. In that Division III uses an improper comparison as a basis for estimation of recoverable oil.

It is ordered, pursuant to Rule 340 (a) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the effectiveness of the filing of said offering sheet be, and the same hereby is, suspended until the 4th day of September 1936; that an opportunity for hearing be given to the said Supreme Oil Inc., for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be incomplete or inaccurate, and whether the said order of suspension should be revoked or continued; and

It is further ordered, that Robert P. Reader, an officer of the Commission be, and he hereby is, designated as trial examiner to preside at such hearing, to adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to such offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that the taking of testimony in this proceeding begin on the 20th day of August 1936, at 10:00 o'clock in the forenoon of that day at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said officer may designate.

Upon the completion of testimony in this matter the officer is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 1604—Filed, August 6, 1936; 12:53 p. m.]

Saturday, August 8, 1936

No. 106

PRESIDENT OF THE UNITED STATES.

EXECUTIVE ORDER

DESIGNATING THE VICE CHAIRMAN OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

By virtue of and pursuant to the authority vested in me by section 10 of the Federal Reserve Act (38 Stat. 260) as amended by section 203 (a) of the Act of August 23, 1935, (49 Stat. 704), I hereby designate Ronald Ransom as Vice Chairman of the Board of Governors of the Federal Reserve System, to serve as such for a term of four years.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE

August 6, 1936.

[No. 7426]

[F. R. Doc. 1607—Filed, August 7, 1936; 11:03 a. m.]

EXECUTIVE ORDER

REVOCATION OF PARAGRAPH 2 (B), SECTION V, SCHEDULE A, OF THE CIVIL SERVICE RULES

WHEREAS Executive Order of February 27, 1917, amended paragraph 2, section V, Schedule A of the Civil Service Rules, so as to except the positions hereinafter named from the

competitive classified service because of low salaries, large turnover, and need of immediate replacement and flexibility in hiring; and

WHEREAS the reasons for making such exceptions no longer exist:

NOW THEREFORE, by virtue of and pursuant to the authority vested in me by the Civil Service Act (22 Stat. 403) it is ordered that paragraph 2 (b), section V, Schedule A of the Civil Service Rules, excepting from the competitive classified service at the United States Naval Academy the positions of baker helpers, coffee men, firemen, linen men, pantry men, dish pantry men, scullions, utility men, waiters, and when filled by promotion from the position of waiter, the positions of head waiter and assistant head waiter, be, and it is hereby, revoked, such positions being returned to the competitive classified service.

The present incumbents may acquire an appropriate civil-service status under the provisions of section 6 of Civil Service Rule II as amended by Executive Order No. 7408 of July 6, 1936.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,

August 6, 1936.

[No. 7427]

[F. R. Doc. 1608—Filed, August 7, 1936; 11:09 a.m.]

## TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 48463]

### COUNTERVAILING DUTIES—GERMAN PRODUCTS

TREASURY DECISION 48360 NOT APPLICABLE TO CERTAIN IMPORTATIONS OF CAMERAS, CALF AND KID LEATHER, AND SURGICAL INSTRUMENTS

#### To Collectors of Customs and Others Concerned.

Reference is made to Treasury Decision 48360, approved June 4, 1936, in which it was announced that countervailing duties would be imposed upon certain German products.

The Department is now in receipt of official advice to the effect that for any transactions concluded after July 25, 1936, which cover the indirect or direct exportation of the following goods to the United States, viz: photographic apparatus, calf and goat leather, and surgical instruments, the German Government will neither authorize the use of the scrip and bond procedure nor permit the payment of a public or private premium or subsidy, nor the employment of other German means of payment than reichsmarks freely convertible into foreign currencies or free reichsmarks usable within the country.

In view of the foregoing, the provisions of Treasury Decision 48360 shall not apply to direct or indirect imports from Germany of the following commodities named in that decision:

Cameras.

Calf and kid leather.

Surgical instruments.

If the collector of customs concerned shall be satisfied by documentary evidence that the contract of purchase or other agreement pursuant to which they were exported from Germany was entered into after July 25, 1936.

[SEAL]

FRANK DOW,

Acting Commissioner of Customs.

Approved, August 4, 1936.

WAYNE C. TAYLOR,

Acting Secretary of the Treasury.

[F. R. Doc. 1639—Filed, August 7, 1936; 1:01 p. m.]

## Bureau of Internal Revenue.

[T. D. 4874]

### INCOME TAX

REVENUE ACT OF 1936: REGULATIONS UNDER SECTION 14, RELATING TO SURTAX ON UNDISTRIBUTED PROFITS OF CORPORATIONS, SECTION 26 AND SECTION 27, RELATING TO CREDITS OF CORPORATIONS, AND SECTION 115, RELATING TO DISTRIBUTIONS BY CORPORATIONS

#### To Collectors of Internal Revenue and Others Concerned.

Pursuant to the provisions of section 62 of the Revenue Act of 1936, and other provisions of the internal revenue laws, the following regulations are hereby prescribed with respect to the surtax imposed on corporations by section 14 of the Act and the credits of corporations provided by sections 26 and 27 of the Act, and with respect to the provisions of section 115 of the Act relative to distributions by corporations:

#### PART I

##### General

ARTICLE 1. *Scope of regulations.*—Section 14 of the Revenue Act of 1936 imposes a surtax upon the net income of every corporation not expressly exempt from such tax which is in addition to the normal tax imposed by section 13 of the Act. These regulations are limited to a consideration of factors involved in the computation of the surtax.

ART. 2. *General arrangement.*—These regulations are divided into five parts. Part I is general. Part II relates to the computation of the surtax on net income of corporations imposed by section 14 of the Act. It includes articles 14-1 to 14-5, both inclusive. Part III relates to certain credits allowed to corporations in computing the surtax. This part includes articles 26-1 to 26-3, both inclusive. Part IV relates to the credits allowed corporations under section 27 of the Act for dividends paid. It includes articles 27-1 to 27-8, both inclusive. Part V relates to the provisions of section 115 of the Act dealing with distributions by corporations. It includes articles 115-1 to 115-4, both inclusive.

In each of Parts II to V, inclusive, the particular section of the law is quoted in full, followed by the articles of the regulations appertaining thereto. The articles have been given key numbers corresponding to the numbers of the sections of the Act to which they relate. For example, articles 14-1 to 14-5 relate to section 14 of the Act.

ART. 3. *Definitions.*—As used in these regulations, the term—

(a) *Act* means the Revenue Act of 1936 (Public, No. 740, 74th Congress, second session, approved June 22, 1936, 9 p. m.)

(b) *Net income* means the gross income computed under section 22 of the Act less the deductions allowed by section 23 of the Act.

(c) *Adjusted net income* means the net income minus the sum of—

(1) the normal tax imposed by section 13 of the Act; and

(2) the credit provided in section 26 (a) of the Act, relating to interest on obligations of the United States and its instrumentalities. (See Part III, article 26-1 of these regulations.)

In the case of a holding company affiliate, as defined in section 2 of the Banking Act of 1933, the amount to be deducted in determining adjusted net income includes also the credit allowed under section 26 (d) of the Act. In the case of a national mortgage association created under Title III of the National Housing Act the amount to be deducted also includes the amount allowed as a credit under section 26 (e) of the Act.

(d) *Undistributed net income* means the adjusted net income minus the sum of—

(1) the dividends paid credit provided in section 27 of the Act (articles 27-1 to 27-8, inclusive, of these regulations)

and

(2) the credit provided in section 26 (c) of the Act relating to contracts restricting the payment of dividends. (See article 26-3 of these regulations.)

(e) *Surtax*, unless otherwise indicated, means the surtax on the net income of corporations imposed by section 14 of the Act.

#### PART II

#### *Surtax on Undistributed Profits*

Section 14 of the Act provides:

#### Sec. 14. *Surtax on Undistributed Profits.*—

(a) *Definitions.*—As used in this title—

(1) The term "adjusted net income" means the net income minus the sum of—

(A) The normal tax imposed by section 13.

(B) The credit provided in section 26 (a), relating to interest on certain obligations of the United States and Government corporations.

(C) In the case of a holding company affiliate (as defined in section 2 of the Banking Act of 1933), the amount allowed as a credit under section 26 (d).

(D) In the case of a national mortgage association created under Title III of the National Housing Act, the amount allowed as a credit under section 26 (e).

(2) The term "undistributed net income" means the adjusted net income minus the sum of the dividends paid credit provided in section 27 and the credit provided in section 26 (c), relating to contracts restricting the dividends.

(b) *Imposition of Tax.*—There shall be levied, collected, and paid for each taxable year upon the net income of every corporation a surtax equal to the sum of the following, subject to the application of the specific credit as provided in subsection (c):

7 per centum of the portion of the undistributed net income which is not in excess of 10 per centum of the adjusted net income.

12 per centum of the portion of the undistributed net income which is in excess of 10 per centum and not in excess of 20 per centum of the adjusted net income.

17 per centum of the portion of the undistributed net income which is in excess of 20 per centum and not in excess of 40 per centum of the adjusted net income.

22 per centum of the portion of the undistributed net income which is in excess of 40 per centum and not in excess of 60 per centum of the adjusted net income.

27 per centum of the portion of the undistributed net income which is in excess of 60 per centum of the adjusted net income.

(c) *Adjusted Net Income Less Than \$50,000.*—

(1) *Specific credit.*—If the adjusted net income is less than \$50,000, there shall be allowed a specific credit equal to the portion of the undistributed net income which is in excess of 10 per centum of the adjusted net income and not in excess of \$5,000, such credit to be applied as provided in paragraph (2).

(2) *Application of specific credit.*—If the corporation is entitled to a specific credit, the tax shall be equal to the sum of the following:

(A) A tax computed under subsection (b) upon the amount of the undistributed net income reduced by the amount of the specific credit, plus

(B) 7 per centum of the amount of the specific credit.

(d) *Exemption From Surtax.*—The following corporations shall not be subject to the surtax imposed by this section:

(1) Banks as defined in section 104.

(2) Domestic corporations which for any portion of the taxable year are in bankruptcy under the laws of the United States, or are insolvent and in receivership in any court of the United States or of any State, Territory, or the District of Columbia.

(3) Insurance companies subject to the tax imposed under section 201, 204, or 207.

(4) Foreign corporations.

(5) Corporations which, by reason of deriving a large portion of their gross income from sources within a possession of the United States, are entitled to the benefits of section 251.

(6) Corporations organized under the China Trade Act, 1922.

(7) Joint Stock Land Banks organized under the Federal Farm Loan Act, as amended.

(e) *Exempt Corporations.*—For corporations exempt from taxation under this title, see section 101.

(f) *Tax on Personal Holding Companies.*—For surtax on personal holding companies, see section 351.

(g) *Improper Accumulation of Surplus.*—For surtax on corporations which accumulate surplus to avoid surtax on stockholders, see section 102.

ART. 14-1. *Measure of surtax.*—The surtax imposed by section 14 of the Act is upon the net income of the corporation but in an amount measured by the undistributed net income, as defined in article 3 (d) of these regulations. It is applicable to each taxable year beginning after December 31, 1935.

ART. 14-2. *Rates of surtax.*—The rates of surtax are graduated in brackets. The lowest rate is 7 percent of that portion of the undistributed net income not in excess of 10 percent of the adjusted net income, as defined in article 3 (c) of these regulations. The highest rate is 27 percent of that portion of the undistributed net income which is in excess of 60 percent of the adjusted net income.

ART. 14-3. *Method of computation. Example.*—The application of the provisions of section 14 (b) of the Act to corporations having an adjusted net income of not less than \$50,000 may be illustrated generally by the following example:

*Example.*—The A Company, a domestic corporation, has for the calendar year 1936 a net income of \$500,000, including interest on United States obligations in the amount of \$25,000 and dividends amounting to \$50,000 from domestic corporations subject to taxation under Title I of the Act. The normal tax of the A Company (not a mutual investment company) computed under section 13 of the Act is \$63,715. Its dividends paid credit computed under section 27 of the Act (see articles 27-1 to 27-3, inclusive, of these regulations) amounts to \$100,000, and its credit under section 26 (c) of the Act (see article 26-3 of these regulations) relating to contracts restricting the payment of dividends amounts to \$80,000. The surtax for the calendar year 1936 is \$36,437.73, computed as follows:

Net income	\$500,000
Minus:	
(1) Normal tax under section 13	\$63,715
(2) Credit under section 26 (a) for interest on United States obligations	25,000
	83,715
Adjusted net income as defined in section 14 (a) (1)	411,285
Minus:	
(1) Dividends paid credit under section 27	\$100,000
(2) Credit relating to contractual restrictions under section 26 (c)	80,000
	180,000
Undistributed net income as defined in section 14 (a) (2)	231,285

The brackets into which the undistributed net income is divided, the amount of the undistributed net income in each bracket, the rate of surtax applicable thereto, the surtax at such rate, and the total surtax, are as follows:

Bracket	Amount of undistributed net income	Rate of tax	Surtax
First, portion of undistributed net income not in excess of 10 percent of adjusted net income (10 percent of \$411,285)	\$41,128.50	7 percent	\$2,879.00
Second, portion of undistributed net income in excess of 10 percent of adjusted net income and not in excess of 20 percent of adjusted net income (10 percent of \$411,285)	41,128.50	12 percent	4,935.42
Third, portion of undistributed net income in excess of 20 percent of adjusted net income and not in excess of 40 percent of adjusted net income (20 percent of \$411,285)	82,257.00	17 percent	13,983.69
Fourth, portion of undistributed net income in excess of 40 percent of adjusted net income and not in excess of 60 percent of adjusted net income (20 percent of \$411,285 less \$81,514, the sum of \$41,128.50 plus \$41,128.50 plus \$82,257)	69,771.00	22 percent	14,639.62
Totals	\$231,285.00		\$36,437.73

ART. 14-4. *Specific credit if adjusted net income is less than \$50,000.*—Section 14 (c) of the Act provides for a specific credit in the case of a corporation which has an adjusted net income of less than \$50,000. This specific credit is an amount equal to the excess of \$5,000 or the total undistributed net income, whichever is less, over 10 percent of the adjusted net income and is to be deducted from the undistributed net income before computing the surtax. After deducting the specific credit from the undistributed net income a surtax is computed on the remainder. The computation is made first according to the brackets as set forth in section 14 (b) of the Act. Then there is added 7 percent of the amount of the specific credit. The sum is the total surtax on the corporation's net income.

The application of the specific credit may be illustrated by the following examples:

*Example (1).*—The A Company has an adjusted net income for the calendar year 1936 of \$1,000. Its undistributed net income likewise is \$1,000. Giving effect to the specific credit, the surtax payable is \$70, computed as follows:

Adjusted net income.....	\$1,000
Undistributed net income.....	1,000
Computation of specific credit:	
Undistributed net income, or \$5,000, whichever is less.....	1,000
Less 10 percent of adjusted net income.....	100
Specific credit under section 14 (c) (1).....	900
Computation of the surtax:	
Undistributed net income.....	1,000
Less: Specific credit.....	900
Remainder subject to surtax under section 14 (b).....	100
Surtax on remainder (7 percent of \$100).....	7
Plus: 7 percent of amount of specific credit (7 percent of \$900).....	63
Total surtax computed under section 14 (c) (2).....	70

In those cases in which the undistributed net income does not exceed \$5,000, the result produced by application of the statutory method of computation illustrated by this example is obtainable by computing the surtax directly as 7 percent on the whole of the undistributed net income.

*Example (2).*—The B Company has an adjusted net income for the calendar year 1936 of \$25,000. It pays no dividends during its taxable year, and is allowed no credit under section 26 (c) of the Act. It has, consequently, an undistributed net income of \$25,000. Giving effect to the specific credit, the surtax payable is \$4,625, computed as follows:

Adjusted net income.....	\$25,000
Undistributed net income.....	25,000
Computation of specific credit:	
Undistributed net income, or \$5,000, whichever is less.....	5,000
Less: 10 percent of adjusted net income.....	2,500
Specific credit under section 14 (c) (1).....	2,500
Computation of the surtax:	
Undistributed net income.....	25,000
Less: Specific credit.....	2,500
Remainder subject to surtax under section 14 (b).....	22,500
Surtax on \$22,500.....	4,450
Plus: 7 percent of amount of specific credit (7 percent of \$2,500).....	175
Total surtax computed under section 14 (c) (2).....	4,625

*Example (3).*—The C Company has an adjusted net income for the calendar year 1936 of \$49,900. It pays no dividends during its taxable year, and is entitled to no credits, other than the specific credit, so that it has for the taxable year an undistributed net income of an equal amount. Giving effect to the specific credit, the surtax payable is \$10,227.50, computed as follows:

Adjusted net income.....	\$49,900.00
Undistributed net income.....	49,900.00
Computation of specific credit:	
Undistributed net income, or \$5,000, whichever is less.....	5,000.00
Less: 10 percent of adjusted net income.....	4,990.00
Specific credit under section 14 (c) (1).....	10.00
Computation of the surtax:	
Undistributed net income.....	49,900.00
Less: Specific credit.....	10.00
Remainder subject to surtax under section 14 (b).....	49,890.00
Surtax on \$49,890.....	10,226.80
Plus: 7 percent of amount of specific credit (7 percent of \$10).....	.70
Total surtax computed under section 14 (c) (2).....	10,227.50

**Art. 14-5. Exemption from surtax.**—Those corporations exempt from income taxation in general pursuant to the provisions of section 101 of the Act are exempt from the surtax imposed by section 14 of the Act. Certain other corporations enumerated in section 14 (d) of the Act, are expressly exempted from the surtax.

### PART III

#### Credits of Corporations

Section 26 of the Act provides:

**Sec. 26. Credits of Corporations.**—In the case of a corporation the following credits shall be allowed to the extent provided in the various sections imposing tax—

(a) *Interest on Obligations of the United States and Its Instrumentalities.*—The amount received as interest upon obligations of the United States or of corporations organized under Act of Congress which is allowed to an individual as a credit for purposes of normal tax by section 25 (a) (1) or (2).

(b) *Dividends Received.*—85 per centum of the amount received as dividends from a domestic corporation which is subject to taxation under this title. The credit allowed by this subsection shall not be allowed in respect of dividends received from a corporation organized under the China Trade Act, 1922, or from a corporation which under section 251 is taxable only on its gross income from sources within the United States by reason of its receiving a large percentage of its gross income from sources within a possession of the United States.

(c) *Contracts Restricting Payment of Dividends.*—

(1) *Prohibition on payment of dividends.*—An amount equal to the excess of the adjusted net income over the aggregate of the amounts which can be distributed within the taxable year as dividends without violating a provision of a written contract executed by the corporation prior to May 1, 1936, which provision expressly deals with the payment of dividends. If a corporation would be entitled to a credit under this paragraph because of a contract provision and also to one or more credits because of other contract provisions, only the largest of such credits shall be allowed, and for such purpose if two or more credits are equal in amount only one shall be taken into account.

(2) *Disposition of profits of taxable year.*—An amount equal to the portion of the earnings and profits of the taxable year which is required (by a provision of a written contract executed by the corporation prior to May 1, 1936, which provision expressly deals with the disposition of earnings and profits of the taxable year) to be paid within the taxable year in discharge of a debt, or to be irrevocably set aside within the taxable year for the discharge of a debt; to the extent that such amount has been so paid or set aside. For the purposes of this paragraph, a requirement to pay or set aside an amount equal to a percentage of earnings and profits shall be considered a requirement to pay or set aside such percentage of earnings and profits. As used in this paragraph, the word "debt" does not include a debt incurred after April 30, 1936.

(3) *Double credit not allowed.*—If both paragraph (1) and paragraph (2) apply, the one of such paragraphs which allows the greater credit shall be applied; and, if the credit allowable under each paragraph is the same, only one of such paragraphs shall be applied.

(d) *Bank Affiliates.*—In the case of a holding company affiliate (as defined in section 2 of the Banking Act of 1933), the amount of the earnings or profits which the Board of Governors of the Federal Reserve System certifies to the Commissioner has been devoted by such affiliate during the taxable year to the acquisition of readily marketable assets other than bank stock in compliance with section 5144 of the Revised Statutes. The aggregate of the credits allowable under this subsection for all taxable years shall not exceed the amount required to be devoted under such section 5144 to such purposes.

(e) *National Mortgage Associations.*—In the case of a national mortgage association created under Title III of the National Housing Act, the amount of the earnings or profits which the Federal Housing Administrator certifies to the Commissioner has been devoted by such association during the taxable year to the acquisition of such reserves as the Administrator may require under the provisions of section 303 of that Act.

**ART. 26-1. Credits of corporation for surtax.**—For the purpose of computing the surtax imposed on corporations by section 14 of the Act, there are allowed the credits provided in section 26 of the Act except the credit for dividends received provided in section 26 (d) of the Act which is allowed for normal tax purposes only.

**ART. 26-2. Interest on obligations of the United States and its instrumentalities.**—The credit allowed by section 26 (a) of the Act for the purpose of computing the adjusted net income is an amount equal to the interest received upon obligations of the United States or of a corporation organized under Act of Congress (if such corporation is an instrumentality of the United States and under the Act authorizing the issue of such obligations, as amended and supplemented, such interest is in the case of individuals exempt from normal tax) which is included in gross income under section 22 of the Act.

ART. 26-3. (a) *Contracts restricting payment of dividends.*—The credit provided in section 26 (c) of the Act (for the purpose of computing the undistributed net income) with respect to contracts restricting the payment of dividends is not available under every contract which might operate to restrict the payment of dividends, but only with respect to those provisions of written contracts executed by the corporation prior to May 1, 1936, which satisfy the conditions prescribed in the Act. The charter of a corporation does not constitute a written contract executed by the corporation within the meaning of section 26 (c) of the Act. The provisions recognized by the Act are of two general types as follows:

(1) those which come within section 26 (c) (1) of the Act, in that they prohibit or limit the payment of dividends during the taxable year; and

(2) those which come within section 26 (c) (2) of the Act, in that they require the payment, or irrevocable setting aside, of a specified portion of the earnings or profits of the taxable year for the discharge of a debt incurred on or before April 30, 1936.

If a corporation is restricted with respect to the payment of dividends by two or more contract provisions coming within section 26 (c) (1) of the Act, only the largest of the credits computed with respect to each of such provisions, and not their sum, shall be allowable under section 26 (c) (1) of the Act and, for such purpose, if two or more credits are equal in amount, only one shall be taken into account. However, section 26 (c) (3) of the Act provides that if both section 26 (c) (1) and section 26 (c) (2) of the Act apply, only the one of such paragraphs which allows the greater credit shall be applied, and, if the credit allowable under each paragraph is the same, only one of such paragraphs shall be applied.

(b) *Prohibition on payment of dividends.*—The credit provided in section 26 (c) (1) of the Act is allowable only with respect to a written contract executed by the corporation prior to May 1, 1936, which expressly deals with the payment of dividends and operates as a legal restriction upon the corporation as to the amounts which it can distribute within the taxable year as dividends. If an amount can be distributed within the taxable year as a dividend—

(1) in one form (as, for example, in stock or bonds of the corporation) without violating the provisions of a contract, but cannot be distributed within the taxable year as a dividend in another form (as, for example, in cash) without violating such provisions, or

(2) at one time (as, for example, during the last half of the taxable year) without violating the provisions of a contract, but cannot be distributed as a dividend at another time within the taxable year (as, for example, during the first half of the taxable year) without violating such provisions—

then the amount is one which, under section 26 (c) (1), can be distributed within the taxable year as a dividend without violating such provisions.

The credit provided in section 26 (c) (1) of the Act is equal to the excess of the adjusted net income, as defined in section 14 (a) of the Act, over the aggregate of the amounts which can be distributed within the taxable year without violating the provisions of such contract. The requirement that the provisions of the contract expressly deal with the payment of dividends is not met in case (1) a corporation is merely required to set aside periodically a sum to retire its bonds or (2) the contract merely provides that while its bonds are outstanding the current assets shall not be reduced below a specified amount.

The computation of the credit allowable under section 26 (c) (1) of the Act may be illustrated by the following examples:

*Example (1).*—For the calendar year 1936 the A Corporation (which was organized in 1918) has a net income (on the accrual basis) of \$200,000, a normal tax liability of \$28,840, and an adjusted net income of \$171,160. At the beginning of the taxable year it had \$50,000 of accumulated

earnings and profits. Its earnings and profits of the taxable year before deducting Federal income taxes amount to \$210,000. The corporation has second mortgage 6 percent bonds outstanding at the close of the year, issued prior to May 1, 1936, in the amount of \$1,000,000. An amount of the earnings and profits sufficient to retire 10 percent of such bonds must, by the provisions of the underlying mortgage, be set aside annually before any dividends can be paid on its stock. The credit allowable under section 26 (c) (1) of the Act is \$40,000, computed as follows:

Adjusted net income.....	\$171,160
Aggregate of amounts which can be distributed:	
Earnings and profits of the taxable year	
before deducting Federal income taxes.....	\$210,000
Less: Normal tax.....	28,840
	181,160
Plus: Earnings and profits at beginning	
of taxable year, accumulated after Feb-	
ruary 28, 1913.....	50,000
	231,160
Less: Amount required for retirement of	
bonds.....	100,000
	131,160
Credit allowable.....	40,000

*Example (2).*—Under the terms of a contract entered into prior to May 1, 1936, Corporation B obtained a loan of \$300,000. The contract provided that as long as the debt remains unpaid not more than 50 percent of the annual earnings shall be used for the payment of dividends. Corporation B has adjusted net income (on the accrual basis) of \$162,660 and a normal tax liability of \$27,340. The current earnings and profits amount to \$140,000 before deducting Federal income taxes and in addition thereto the corporation had at the beginning of its taxable year \$40,000 representing earnings and profits accumulated after February 28, 1913. The credit allowable under section 26 (c) (1) of the Act is \$66,330 computed as follows:

Adjusted net income.....	\$162,660
Aggregate of amounts which can be distributed:	
Current earnings and profits.....	\$140,000
Less: Normal tax.....	27,340
	112,660
Current earnings and profits available.....	112,660
Plus: Earnings and profits at beginning of	
taxable year accumulated after February	
28, 1913.....	40,000
	152,660
Total.....	152,660
Less: Amount restricted: 50 percent of cur-	
rent earnings, i. e., 50 percent of \$112,660.....	56,330
	96,330
Credit allowable.....	66,330

(c) *Disposition of profits of taxable year.*—Under the provisions of section 26 (c) (2) of the Act, a corporation is allowed a credit in an amount equal to that portion of the earnings and profits of the taxable year which, by the terms of a written contract executed by the corporation prior to May 1, 1936, and expressly dealing with the disposition of the earnings and profits of the taxable year, it is required within the taxable year to pay in, or irrevocably to set aside for, the discharge of a debt incurred on or before April 30, 1936. The credit is limited to that amount which is actually so paid or irrevocably set aside during the taxable year pursuant to the requirements of such a contract.

Only a contractual provision which expressly deals with the disposition of the earnings and profits of the taxable year shall be recognized as a basis for the credit provided in section 26 (c) (2) of the Act. A corporation having outstanding bonds is not entitled to a credit under a provision merely requiring it, for example, (1) to retire annually a certain percentage or amount of such bonds, (2) to maintain a sinking fund sufficient to retire all or a certain percentage of such bonds by maturity, (3) to pay into a sinking fund for the retirement of such bonds a specified amount per thousand feet of timber cut or per ton of coal mined, or (4) to pay into a sinking fund for the retirement of such bonds an amount equal to a certain percentage of gross sales.



or gross income. Such provisions do not expressly deal with the disposition of earnings and profits of the taxable year. A contractual provision, however, shall not be considered as not expressly dealing with the disposition of earnings and profits of the taxable year merely because it deals with such earnings and profits in terms of "net income", "net earnings", or "net profits."

The term "debt" as used in section 26 (c) (2) of the Act does not include an obligation of the corporation to a shareholder, as such, as distinguished from a creditor. Accordingly, amounts paid into, or set aside for, a sinking fund by a corporation for the retirement of preferred stock, pursuant to the terms of an agreement underlying the preferred stock issue, shall not be considered as set aside for the discharge of a debt. An indebtedness evidenced by bonds or other similar obligations issued by a corporation is incurred as of the date such obligations are issued, and the amount of such indebtedness is the amount represented by the face value of the obligations. For the purpose of this article a bond or other similar obligation is not issued until it is executed and delivered to a person who holds it as a debt of the corporation. Bonds issued after April 30, 1936, in exchange in refunding a preexisting issue represent debts incurred after April 30, 1936 within the meaning of section 26 (c) (2) of the Act.

#### PART IV

#### *Corporation Credit for Dividends Paid*

Section 27 of the Act provides:

**Sec. 27. Corporation Credit for Dividends Paid.**—(a) Dividends Paid Credit in General.—For the purposes of this title, the dividends paid credit shall be the amount of dividends paid during the taxable year.

(b) Dividend Carry-Over.—In computing the dividends paid credit for any taxable year, if the dividends paid during the taxable year are less than the adjusted net income, there shall be allowed as part of the dividends paid credit, and in the following order:

(1) Dividends paid during the second preceding taxable year in excess of the adjusted net income for such year, to the extent not needed as a dividends paid credit for the taxable year preceding the taxable year the tax for which is being computed; and

(2) Dividends paid during the first preceding taxable year in excess of the adjusted net income for such year.

No credit shall be allowed for dividends paid by a corporation prior to its first taxable year under this title.

(c) *Dividends in Kind.*—If a dividend is paid in property other than money (including stock of the corporation if held by the corporation as an investment) the dividends paid credit with respect thereto shall be the adjusted basis of the property in the hands of the corporation at the time of the payment, or the fair market value of the property at the time of the payment, whichever is the lower.

(d) *Dividends in Obligations of the Corporation.*—If a dividend is paid in obligations of the corporation, the amount of the dividends paid credit with respect thereto shall be the face value of the obligations, or their fair market value at the time of the payment, whichever is the lower. If the fair market value is lower than the face value, then when the obligation is redeemed by the corporation, the excess of the amount for which redeemed over the fair market value at the time of the dividend payment (to the extent not allowable as a deduction in computing net income for any taxable year) shall be treated as a dividend paid in the taxable year in which the redemption occurs.

(e) *Taxable Stock Dividends.*—In case of a stock dividend or stock right which is a taxable dividend in the hands of shareholders under section 115, (f) the dividends paid credit with respect thereto shall be the fair market value of the stock or the stock right at the time of the payment.

(f) *Distributions in Liquidation.*—In the case of amounts distributed in liquidation the part of such distribution which is properly chargeable to the earnings or profits accumulated after February 28, 1913, shall, for the purposes of computing the dividends paid credit under this section, be treated as a taxable dividend paid.

(g) *Preferential Dividends.*—No dividends paid credit shall be allowed with respect to any distribution unless the distribution is pro rata, equal in amount, and with no preference to any share of stock as compared with other shares of the same class.

(h) *Nontaxable Distributions.*—If any part of a distribution (including stock dividends and stock rights) is not a taxable dividend in the hands of such of the shareholders as are subject to taxation under this title for the period in which the distribution is made, no dividends paid credit shall be allowed with respect to such part.

Section 43 of the Act provides:

**Sec. 43. Period for Which Deductions and Credits Taken.**—The deductions and credits (other than the dividends paid credit pro-

vided in section 27) provided for in this title shall be taken for the taxable year in which "paid or accrued" or "paid or incurred", dependent upon the method of accounting upon the basis of which the net income is computed, unless in order to clearly reflect the income the deductions or credits should be taken as of a different period. In the case of the death of a taxpayer there shall be allowed, as deductions and credits for the taxable period in which falls the date of his death, amounts accrued up to the date of his death if not otherwise properly allowable in respect of such period or a prior period.

Section 121 of the Act provides:

**Sec. 121. Deduction of Dividends Paid on Certain Preferred Stock of Certain Corporations.**—In computing the net income of any national banking association, or of any bank or trust company organized under the laws of any State, Territory, possession of the United States, or the Canal Zone, or of any other banking corporation engaged in the business of industrial banking and under the supervision of a State banking department or of the Comptroller of the Currency, or of any incorporated domestic insurance company, there shall be allowed as a deduction from gross income, in addition to deductions otherwise provided for in this title, any dividend (not including any distribution in liquidation) paid, within such taxable year, to the United States or to any instrumentality thereof, exempt from Federal income taxes, on the preferred stock of the corporation owned by the United States or such instrumentality. The amount allowable as a deduction under this section shall be deducted from the dividends paid credit otherwise computed under section 27.

**ART. 27-1. Dividends paid credit in general.**—(a) *Allowance.*—For the purposes of the surtax imposed by section 14 of the Act a dividends paid credit is allowed against adjusted net income in determining undistributed net income. The amount of the credit is the amount of the dividends paid during the taxable year subject, however, to the qualifications, limitations, and exceptions prescribed in subsections (b) to (h), inclusive, of section 27 of the Act. See also section 121 of the Act with respect to dividends paid on preferred stock owned by the United States or instrumentalities thereof.

(b) *When dividends are considered paid.*—A dividend will be considered as paid when it is received by the shareholder. A dividends paid credit cannot be allowed unless the shareholder receives the dividend during the taxable year for which the credit is claimed.

If a dividend is paid by check and the check bearing a date within the taxable year is deposited in the mails, in a cover properly stamped and addressed to the shareholder at his last known address, at such time that in the ordinary handling of the mails the dividend would be received by the shareholder within the taxable year, a presumption arises that the dividend was paid to the shareholder in such year.

The payment of a dividend during the taxable year to the authorized agent of the shareholder will be deemed payment of the dividend to the shareholder during such year.

If a corporation, instead of paying the dividend directly to the shareholders, credits the account of the shareholder on the books of the corporation with the amount of the dividend, the credit for a dividend paid will not be allowed unless it be shown to the satisfaction of the Commissioner that such crediting constituted payment of the dividend to the shareholder within the taxable year.

A credit will not be allowed for the amount of a dividend credited during the taxable year upon an obligation of the shareholder to the corporation unless it is shown to the satisfaction of the Commissioner that such crediting constituted payment of the dividend to the shareholder within the taxable year.

In the case of a stock dividend, if the shares constituting the dividend are not entered or registered on the books of the corporation in the name of the shareholder (or his nominee or transferee) within the taxable year, the dividend will not be deemed to have been paid in such year. Delivery of a certificate, or certificates, for such new shares, within the taxable year, constitutes prima facie evidence of the payment of the dividend.

If the dividend is payable in obligations of the corporation, they should be entered or registered in the taxable year on the books of the corporation, in the name of the shareholder (or his nominee or transferee), and, in the case of obligations payable to bearer, should be received in the taxable year

by the shareholder (or his nominee or transferee), to constitute payment of the dividend within the taxable year.

(c) *Methods of accounting.*—The determination of whether a dividend has been paid to the shareholder by the corporation during its taxable year is in no way dependent upon the method of accounting regularly employed by the corporation in keeping its books or upon the method of accounting upon the basis of which the net income of the corporation is computed. See section 43 of the Act.

(d) *Records.*—Every corporation claiming a dividends paid credit shall keep such permanent records as are necessary (1) to establish that the dividends with respect to which such credit is claimed were actually paid during the taxable year and (2) to supply the information required to be filed with the income tax return of the corporation. Such corporation shall file with its return (a) a true copy of the dividend resolution; and (b) a concise statement of the facts relied upon to show payment of the dividend within the taxable year, clearly specifying (1) the medium of payment and (2), if not paid in money, the fair market value and adjusted basis (or face value, if paid in its own obligations) on the date of distribution of the property distributed, and the manner in which such fair market value and adjusted basis were determined. Cancelled dividend checks and receipts obtained from shareholders acknowledging payment of dividends paid otherwise than by check need not be filed with the return but shall be kept by the corporation as a part of its records.

ART. 27-2. *Dividend carry-over.*—A corporation is allowed under section 27 (b) of the Act to include in its dividends paid credit a dividend carry-over from certain preceding taxable years, in addition to the credit for dividends paid during the taxable year. If in the taxable year no dividends are actually paid or if in such year dividends actually paid are less in amount than the adjusted net income for such year, there shall be included as part of the dividends paid credit for such taxable year in the following order—

- (1) the amount by which dividends which were actually paid during the second preceding taxable year exceeded the adjusted net income for such year, but only to the extent that the excess was not needed as part of the dividends paid credit for the first preceding taxable year (whether or not the part needed was actually included in the dividends paid credit of such first preceding taxable year); and
- (2) the amount by which the dividends actually paid during the first preceding taxable year exceeded the adjusted net income for such year.

The Act prohibits any part of the dividend carry-over from consisting of dividends paid by the corporation during any taxable year or period beginning prior to January 1, 1936. The first taxable year or period in which a corporation may avail itself of the benefit of the dividend carry-over is its second taxable year or period beginning after December 31, 1935.

Every corporation claiming a dividend carry-over for any taxable year or period shall file with its return for such year or period a concise statement setting forth the amount of the dividend carry-over claimed and all material and pertinent facts relative thereto, including a detailed schedule showing the computation of the dividend carry-over claimed.

The application of section 27 (b) of the Act may be illustrated by the following examples:

*Example (1).*—The N. Corporation has an adjusted net income of \$80,000 for the calendar year 1936, and during that year pays dividends aggregating \$90,000. For the calendar year 1937, the corporation has an adjusted net income of \$120,000 and during that year pays dividends in the amount of \$50,000. The dividends paid credit for the calendar year 1937 is \$60,000, computed as follows:

Dividends paid during 1936.....	\$90,000
Adjusted net income for 1936.....	80,000
Excess of dividends paid during 1936 over adjusted net income for that year.....	10,000

Dividends paid during 1937.....	\$50,000
Plus:	
Excess of dividends paid during 1936 over adjusted net income for 1936.....	10,000
Dividends paid credit for 1937.....	60,000

*Example (2).*—The R Corporation has an adjusted net income of \$60,000 for the calendar year 1936 and for that year pays dividends aggregating \$75,000. For the calendar year 1937 the corporation has an adjusted net income of \$100,000 and during that year pays dividends aggregating \$90,000. During the calendar year 1938 the corporation pays dividends of \$50,000, the adjusted net income for that year being \$80,000. The dividends paid credit for the calendar year 1937 is \$100,000, computed as follows:

Dividends paid during 1937.....	\$90,000
Plus: Portion of \$15,000, the excess of dividends paid during 1936 (\$75,000) over adjusted net income for that year (\$60,000) needed as a dividends paid credit for 1937.....	10,000
Dividends paid credit for 1937.....	100,000

The dividends paid credit for the calendar year 1938 is \$55,000, computed as follows:

Dividends paid during 1938.....	\$50,000
Plus: The excess of dividends paid during 1936 over adjusted net income for that year (\$75,000-\$60,000) or \$15,000, to the extent not needed as dividends paid credit for 1937 (\$15,000-\$10,000).....	5,000
Excess of dividends paid during 1937 over adjusted net income for that year.....	None
Dividends paid credit for 1938.....	55,000

As applied to this example, the Act provides for a two-year dividend carry-over in computing the dividends paid credit for 1938, since the excess (\$15,000) of the dividends paid during 1936 over the adjusted net income for that year is allowed as part of the dividends paid credit for 1937 and 1938, \$10,000 of such excess being applicable to 1937 and the remaining \$5,000 to 1938. Of the \$15,000 excess, the entire amount of \$10,000 (the difference between the adjusted net income of \$100,000 and the dividends of \$90,000 paid during 1937) must be applied, if at all, as part of the dividends paid credit for 1937.

ART. 27-3. *Dividends in kind.*—Section 27 (c) of the Act imposes limitations upon the extent to which dividends paid in assets (other than money) may be recognized for purposes of determining the amount of dividends paid credit. Irrespective of the form of the corporate resolution by which a dividend is declared, if the dividend is ultimately and actually paid by the corporation in any property constituting its corporate assets other than money, the amount of the dividends paid credit to which the corporation is entitled with respect thereto cannot exceed the lesser of the two following amounts determined as of the time of payment:

- (1) the adjusted basis of such property in the hands of the corporation as provided for in section 113 of the Act; or
- (2) the fair market value of such property.

As used in this article the term "property" includes shares of capital stock of the corporation making the dividend distribution if such shares of stock are held by it as an investment. Unless shown to the contrary, shares of capital stock once issued but thereafter acquired by the corporation in any manner whatsoever, but not retired, shall be deemed to be held by the corporation as an investment. The term "property" also includes obligations upon which the corporation making the distribution is liable as a guarantor, endorser, or surety.

The application of section 27 (c) of the Act may be illustrated by the following example:

*Example.*—The S Corporation in 1930 purchased stock of the Y Corporation for \$100,000. In 1936 such stock had a fair market value of \$70,000. During the period of its ownership of such stock, the S Corporation received distributions amounting to \$5,000, out of earnings or profits of Y Corporation accumulated before March 1, 1913. In 1936 the corporation used such stock for the payment of a dividend.

The dividends paid credit for 1936 is \$70,000, computed as follows:

Purchase price or cost of stock	\$100,000
Less: Tax-free distribution	5,000
Adjusted basis of stock in the hands of corporation at the time of the dividend payment	95,000
Fair market value of stock at the time of the dividend payment	70,000
Dividends paid credit for 1936	70,000

Since the fair market value of the stock (\$70,000) at the time of the dividend payment is less than the adjusted basis (\$95,000) of the stock in the hands of the corporation at the time of the dividend payment, the lesser amount (\$70,000) should be used as the dividends paid credit for 1936 with respect to such stock.

**ART. 27-4. Dividends in obligations of the corporation.**—Section 27 (d) of the Act is concerned solely with the amount of dividends paid credit allowable to the extent that dividends are paid by a corporation in its own obligations. If the corporation ultimately pays a dividend in its own obligations (regardless of the form of the corporate resolution by which the dividend is declared) the amount of the dividends paid credit to which it is entitled with respect thereto for the year in which such dividend is paid is limited to the lesser of the face value or fair market value of such obligations as of the date of payment. If the dividends paid credit as of the date of payment is limited to the fair market value of the corporate obligations distributed, the corporation becomes entitled to an additional dividends paid credit for the taxable year in which it redeems such obligations, but only in the event that the amount at which such obligations are redeemed is higher than their fair market value at the time of the distribution. The amount of such additional dividends paid credit is the excess of the price at which such obligations are redeemed over their fair market value at the time of the distribution, subject to the restriction that such excess be diminished by any amounts which were allowable as deductions for amortized bond discount or bond issue commissions and expenses allocable to the obligations redeemed in computing the net income of the corporation for any taxable year. A corporation is entitled to such additional dividends paid credit regardless of the identity of the holders of the obligations at the time of their redemption.

The term "obligations" as used in this article means any legal liability on the part of the corporation (not including liability as a guarantor, indorser, or surety) regardless of when incurred, to pay a fixed or determinable sum of money, evidenced in writing executed by the corporation. The term "redeemed" as used in this article includes (1) repurchase in the open market for investment or sinking fund purposes, (2) retirement, or (3) cancellation of the obligations before, at, or after maturity.

The application of section 27 (d) of the Act may be illustrated by the following example:

**Example.**—The X Corporation declared a dividend of \$85,000 in 1936, payable in that year in its 5 percent bonds at 85. Pursuant to such declaration, bonds having an aggregate face value of \$100,000 were issued during 1936 in payment of the dividend. The fair market value of the bonds at the time of issuance was \$75,000. The dividends paid credit for 1936 is the fair market value of the bonds at the time of the dividend payment (\$75,000) since such fair market value is lower than the face value (\$100,000) of the obligations.

The corporation prior to the redemption of the bonds at face value deducted in its returns over the life of the bonds the \$15,000 bond discount resulting from the payment in 1936 of the \$85,000 dividend in bonds having a face value of \$100,000. The dividends paid credit with respect to the bond redemption for the taxable year in which the redemption of the bonds occurred is \$10,000, computed as follows:

Redemption price of bonds	\$100,000
Less: Fair market value of bonds when dividend was paid in 1936	75,000
Difference	25,000

Less: Bond discount allowed as a deduction in computing net income \$15,000

Amount treated as dividend paid in taxable year in which redemption occurs 10,000

**ART. 27-5. Taxable stock dividends.**—Every corporation subject to tax under section 14 of the Act is entitled to a dividends paid credit with respect to distributions in stock dividends or stock rights which are taxable dividends in the hands of shareholders under section 115 (f) of the Act and article 115-3 of these regulations. Such credit, however, is limited in amount to the fair market value of such stock or stock rights at the time of the payment of the dividend. As to a distribution by a corporation of its own capital stock held as an investment, see article 27-3 of these regulations.

**ART. 27-6. Dividends paid credit for distributions in liquidation.**—(a) *Distributions which diminish earnings or profits.*—To the general rule that the dividends paid credit is allowable only with respect to taxable dividends paid, section 27 (f) of the Act makes one exception, namely, for that part of an amount distributed in liquidation which, under the Act, constitutes a distribution of, and is properly chargeable to, earnings or profits accumulated after February 28, 1913. Thus, a distribution either in complete or partial liquidation of a corporation is treated by the Act as one constituting in part a distribution of, and being properly chargeable to, earnings or profits, if—

(1) under the provisions of section 115 (c) of the Act, the amounts distributed in liquidation are treated as received in payment in exchange for the stock; and

(2) under the provisions of section 112 of the Act, the gain or loss, if any, from such exchange is recognized.

In such case, a dividend paid credit is allowable for the amount actually involved in such distribution which is properly chargeable to the earnings or profits accumulated after February 28, 1913, even though the method of taxation of the distribution is that ordinarily employed with respect to the gain or loss realized and recognized upon an exchange, rather than that employed with respect to a taxable dividend.

On the other hand, certain transactions described in sections 112 and 115 of the Act are treated for the purposes of the Act, not as distributions to the shareholders of earnings or profits, but as transfers of such earnings or profits intact to another corporation in whose hands such earnings or profits, being available for distribution by it as dividends to its shareholders, have essentially the same status for the purposes of the Act as earnings or profits derived from its own operations. Characteristic of these transactions is the circumstance that the gain or loss realized from the receipt by the shareholders of property is not recognized by the Act. No dividends paid credit is allowable with respect to such transactions.

(b) *Amount properly chargeable to earnings or profits.*—In the case of a distribution in liquidation with respect to which a dividends paid credit is allowable (see paragraph (a) of this article) the amount of the credit is equal to the part of such distribution which is properly chargeable to the earnings or profits accumulated after February 28, 1913. To determine the amount properly chargeable to the earnings or profits accumulated since February 28, 1913, there must be deducted from the amount of the distribution that part allocable to capital account. The capital account, for purposes of these regulations, includes not only amounts representing the par or stated value of the stock with respect to which the liquidating distribution is being made but also that stock's proper share of the paid-in surplus, and such other corporate items, if any, which, for purposes of income taxation, are treated like capital in that they are not taxable dividends when distributed but are applied against and reduce the adjusted basis of the stock. The remainder of the distribution in liquidation is, ordinarily, properly chargeable to the earnings or profits accumulated since February 28, 1913. The application of this paragraph may be illustrated by the following example:

**Example.**—The Y Corporation was organized on January 1, 1910, with an authorized and outstanding capital stock of



2,000 shares of common stock of a par value of \$100 each and 1,000 shares of participating preferred stock of a par value of \$100 each. The preferred stock was to receive annual dividends of \$7 per share and \$100 per share on complete liquidation of the corporation in priority to any payments on common stock, was to participate equally with the common stock in either instance after the common stock had received a similar amount. However, the preferred stock was redeemable in whole or in part at the option of the board of directors at any time at \$106 per share plus its proportion of the earnings of the company at the time of such redemption. In 1910 the preferred stock was issued at \$106 per share, for a total of \$106,000, and the common stock was issued, at \$100 per share, for a total of \$200,000. On July 15, 1936, the company had a paid in surplus of \$6,000, consisting of the premium received on the preferred stock, earnings or profits of \$30,000 accumulated prior to March 1, 1913, and earnings or profits accumulated since February 28, 1913, of \$75,000. On July 15, 1936, the option with respect to the preferred stock was exercised and the entire amount of such stock was redeemed at \$141 per share, or a total of \$141,000, in a transaction upon which gain or loss to the distributees resulting from the exchange was determined and recognized under the Act, such transaction being only a partial liquidation under section 115 (c) of the Act. The amount of the distribution allocable to capital account was \$116,000 (\$100,000 attributable to par value, \$6,000 attributable to paid-in surplus, and \$10,000 attributable to earnings or profits accumulated prior to March 1, 1913). The remainder, \$25,000 (\$141,000, the amount of the distribution, less \$116,000, the amount allocable to capital account) is properly chargeable to the earnings or profits accumulated since February 28, 1913, and is allowable as a dividends paid credit.

(c) *Credit in respect of earnings or profits transferred under certain tax-free transactions.*—If the earnings or profits of a corporation shall have become the earnings or profits of another corporation as the result of a transaction described in section 112 of the Act having occurred during the taxable year of the transferor corporation, any dividends paid by the transferee corporation during that portion of the transferor's taxable year subsequent to the consummation of such transaction may, with the approval of the Commissioner of Internal Revenue, be apportioned and allocated to the transferor corporation and the transferee corporation, respectively, and the portion so allocated to the transferor corporation may be used only in the computation of the dividends paid credit allowable to the transferor corporation. No such apportionment and allocation shall be recognized unless proper application therefor, to the Commissioner of Internal Revenue duly executed in duplicate by both corporations, is submitted with the returns of the corporations for the taxable years involved. The return of each corporation shall contain a statement setting forth concisely the amount and the date of the several dividend distributions subject to such apportionment and the portions thereof allocated to the transferor corporation and to the transferee corporation, respectively. Upon the audit of the returns, the Commissioner will decide whether the application for apportionment and allocation will be approved.

ART. 27-7. *Preferential distributions.*—Section 27 (g) of the Act imposes a limitation upon the general rule that a corporation is entitled to a dividends paid credit with respect to all dividends which it actually pays during the taxable year. Before a corporation may be entitled to any dividends paid credit with respect to a distribution, regardless of the medium in which the distribution is made, every share of stock of the class to the holders of which the distribution is made must be treated the same as every other share of stock of that class. The existence of a preference is declared by the Act as sufficient to prohibit the dividends paid credit, regardless of the fact (1) that such preference is exercised with the consent of all the shareholders and (2) that the amounts received by the shareholders benefited by the preference are taxable to them as dividends. Under

no circumstances will a corporation be entitled to a dividends paid credit with respect to any distribution, whether it be a dividend as defined in section 115 of the Act or a distribution in liquidation referred to in section 27 (f) of the Act, if any shareholder of the class to whom the distribution is made received (in proportion to the number of shares of stock held by him) more or less than a pro rata amount of such distribution as compared with the amount distributed to the owners of other shares of the same class of stock. The disallowance of the dividends paid credit, where any preference or inequality in fact exists, extends to the entire amount of the distribution and not merely to a part of such distribution.

The application of the provisions of section 27 (g) of the Act, relating to distributions which are preferential or unequal in amount, may be illustrated by the following examples:

*Examples (1).*—A, B, C, and D are the owners of all the shares of Class A common stock in the M Corporation which makes its income returns on a calendar year basis. With the consent of all the shareholders, the M Corporation, on July 15, 1936, declared a dividend of \$5 a share payable in cash on August 1, 1936, to A. On September 15, 1936, it declared a dividend of \$5 a share payable in cash on October 1, 1936, to B, C, and D. No dividends paid credit for the taxable year 1936 is allowable to the M Corporation with respect to any part of the dividends paid on August 1, 1936, and October 1, 1936.

*Example (2).*—The N Corporation has a capital of \$100,000 (consisting of 1,000 shares of common stock of a par value of \$100) and earnings or profits accumulated after February 28, 1913, in the amount of \$50,000. In the year 1936, the N Corporation distributes \$7,500 in cancellation of 50 shares of the stock owned by three of the four shareholders of the corporation. No dividends paid credit is allowable under section 27 (g) of the Act with respect to such distribution.

ART. 27-8. *Nontaxable distributions.*—No dividends paid credit shall be allowed with respect to any part of the distribution by a corporation to its shareholders which is—

(a) not out of earnings or profits of the taxable year or out of earnings or profits of the corporation accumulated subsequent to February 28, 1913 (see section 115 of the Act), or, in the case of distributions in liquidation, not properly chargeable to earnings or profits of the corporation accumulated after February 28, 1913, under article 27-6 of these regulations;

(b) in the case of a corporation which was classified as a personal service corporation under the Revenue Act of 1918 or the Revenue Act of 1921, out of earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or section 218 of the Revenue Act of 1921 (see section 115 (e) of the Act); or

(c) a distribution in stock of the corporation or rights to acquire its stock which does not constitute income to its shareholders within the meaning of the Sixteenth Amendment to the Constitution (see section 115 (f) of the Act and articles 115-3 and 115-4 of these regulations).

The effect of subsections (g) and (h) of section 27 of the Act is that no dividends paid credit is allowed with respect to any distribution unless each of the shareholders of that class, who are subject to taxation under Title I of the Act for the period in which the distribution is made, receives a taxable dividend as a result of the distribution.

The application of section 27 (h) of the Act may be illustrated by the following examples:

*Example (1).*—A, B, C, and D are the shareholders of the Y Corporation which makes its returns on the calendar year basis, D being an educational corporation exempt from income tax under section 101 of the Act. On July 15, 1936, the Y Corporation paid a dividend (within the meaning of section 115 of the Act) in cash of \$1,000. A and B make their returns on the calendar year basis; but C makes his return on the basis of the fiscal year ending July 31. Corporation Y is entitled to a dividends paid credit in the amount of \$1,000 with respect to the dividends paid on July 15.

**Example (2).**—If the facts in the preceding example are the same, except that A, B, and C make their returns on the basis of the fiscal year ending July 31, the Y Corporation is entitled to a dividends-paid credit in the amount of \$1,000 with respect to the dividends paid on July 15.

## PART V

*Distributions by Corporations*

Section 115 of the Act provides:

**SEC. 115. Distributions by Corporation.**—(a) *Definition of Dividend.*—The term "dividend" when used in this title (except in section 203 (a) (3) and section 207 (c) (1), relating to insurance companies) means any distribution made by a corporation to its shareholders, whether in money or in other property, (1) out of its earnings or profits accumulated after February 28, 1913, or (2) out of the earnings or profits of the taxable year (computed as of the close of the taxable year without diminution by reason of any distributions made during the taxable year), without regard to the amount of the earnings and profits at the time the distribution was made.

(b) *Source of Distributions.*—For the purposes of this Act every distribution is made out of earnings or profits to the extent thereof, and from the most recently accumulated earnings or profits. Any earnings or profits accumulated, or increase in value of property accrued, before March 1, 1913, may be distributed exempt from tax, after the earnings and profits accumulated after February 28, 1913, have been distributed, but any such tax-free distribution shall be applied against and reduce the adjusted basis of the stock provided in section 113.

(c) *Distributions in Liquidation.*—Amounts distributed in complete liquidation of a corporation shall be treated as in full payment in exchange for the stock, and amounts distributed in partial liquidation of a corporation shall be treated as in part or full payment in exchange for the stock. The gain or loss to the distributee resulting from such exchange shall be determined under section 111, but shall be recognized only to the extent provided in section 112. Despite the provisions of section 117 (a), 100 per centum of the gain so recognized shall be taken into account in computing net income, except in the case of amounts distributed in complete liquidation of a corporation. For the purpose of the preceding sentence, "complete liquidation" includes any one of a series of distributions made by a corporation in complete cancellation or redemption of all of its stock in accordance with a bona fide plan of liquidation and under which the transfer of the property under the liquidation is to be completed within a time specified in the plan, not exceeding two years from the close of the taxable year during which is made the first of the series of distributions under the plan. In the case of amounts distributed (whether before January 1, 1934, or on or after such date) in partial liquidation (other than a distribution within the provisions of subsection (h) of this section of stock or securities in connection with a reorganization) the part of such distribution which is properly chargeable to capital account shall not be considered a distribution of earnings or profits.

(d) *Other Distributions from Capital.*—If any distribution (not in partial or complete liquidation) made by a corporation to its shareholders is not out of increase in value of property accrued before March 1, 1913, and is not a dividend, then the amount of such distribution shall be applied against and reduce the adjusted basis of the stock provided in section 113, and if in excess of such basis, such excess shall be taxable in the same manner as a gain from the sale or exchange of property.

(e) *Distributions by Personal Service Corporations.*—Any distribution made by a corporation which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 or the Revenue Act of 1921 out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or section 218 of the Revenue Act of 1921, shall be exempt from tax to the distributees.

(f) *Stock Dividends.*—

(1) *General rule.*—A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall not be treated as a dividend to the extent that it does not constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution.

(2) *Election of shareholders as to medium of payment.*—Whenever a distribution by a corporation is, at the election of any of the shareholders (whether exercised before or after the declaration thereof), payable either (A) in its stock or in rights to acquire its stock, of a class which if distributed without election would be exempt from tax under paragraph (1), or (B) in money or any other property (including its stock or in rights to acquire its stock, of a class which if distributed without election would not be exempt from tax under paragraph (1)), then the distribution shall constitute a taxable dividend in the hands of all shareholders, regardless of the medium in which paid.

(g) *Redemption of Stock.*—If a corporation cancels or redeems its stock (whether or not such stock was issued as a stock dividend) at such time and in such manner as to make the distribution and cancellation or redemption in whole or in part essentially equivalent to the distribution of a taxable dividend, the amount so distributed in redemption or cancellation of the stock, to the

extent that it represents a distribution of earnings or profits accumulated after February 28, 1913, shall be treated as a taxable dividend.

(h) *Effect on Earnings and Profits of Distributions of Stock.*—The distribution (whether before January 1, 1936, or on or after such date) to a distributee by or on behalf of a corporation of its stock or securities or stock or securities in another corporation shall not be considered a distribution of earnings or profits of any corporation—

(1) if no gain to such distributee from the receipt of such stock or securities was recognized by law; or

(2) if the distribution was not subject to tax in the hands of such distributee because it did not constitute income to him within the meaning of the Sixteenth Amendment to the Constitution or because exempt to him under section 115 (f) of the Revenue Act of 1934 or a corresponding provision of a prior Revenue Act.

As used in this subsection the term "stock or securities" includes rights to acquire stock or securities.

(i) *Definition of Partial Liquidation.*—As used in this section the term "amounts distributed in partial liquidation" means a distribution by a corporation in complete cancellation or redemption of a part of its stock, or one of a series of distributions in complete cancellation or redemption of all or a portion of its stock.

(j) *Valuation of Dividend.*—If the whole or any part of a dividend is paid to a shareholder in any medium other than money the property received other than money shall be included in gross income at its fair market value at the time as of which it becomes income to the shareholder.

**ART. 115-1. Dividends.**—The term "dividend" for the purpose of Title I of the Act (except when used in sections 203 (a) (3) and 207 (c) (1) thereof) comprises any distribution in the ordinary course of business, even though extraordinary in amount, made by a domestic or foreign corporation to its shareholders out of either—

(1) earnings or profits accumulated since February 28, 1913, or

(2) earnings or profits of the taxable year computed without regard to the amount of the earnings or profits (whether of such year or accumulated since February 28, 1913) at the time the distribution was made.

The earnings or profits of the taxable year shall be computed as of the close of such year, without diminution by reason of any distributions made during the taxable year. For the purpose of determining whether a distribution constitutes a dividend, it is unnecessary to ascertain the amount of the earnings and profits accumulated since February 28, 1913, if the earnings and profits of the taxable year are in excess of the total amount of the distributions made within such year.

A taxable distribution made by a corporation to its shareholders shall be included in the gross income of the distributees when the cash or other property is unqualifiedly made subject to their demands.

The application of section 115 (a) of the Act may be illustrated by the following example:

**Example.**—At the beginning of the calendar year 1936, the M Corporation had an operating deficit of \$200,000 and the earnings or profits for the year amounted to \$100,000. Beginning on March 16, 1936, the corporation made quarterly distributions during the taxable year to its shareholders of \$25,000 each. Each distribution is a taxable dividend in full, irrespective of the actual or the pro rata amount of the earnings or profits on hand at any of the dates of distribution, since the total distributions made during the year (\$100,000) did not exceed the total earnings or profits of the year (\$100,000).

**ART. 115-2. Sources of distributions in general.**—For the purpose of income taxation every distribution made by a corporation is made out of earnings or profits to the extent thereof and from the most recently accumulated earnings or profits. In determining the source of a distribution, consideration should be given *first*, to the earnings or profits of the taxable year; *second*, to the earnings or profits accumulated since February 28, 1913 only in the case where, and to the extent that, the distributions made during the taxable year are not regarded as out of the earnings or profits of that year; *third*, to the earnings or profits accumulated prior to March 1, 1913, only after all the earn-

ings or profits of the taxable year and all the earnings or profits accumulated since February 28, 1913, have been distributed; and, *fourth*, to sources other than earnings or profits only after the earnings or profits have been distributed.

If the earnings or profits of the taxable year (computed as of the close of the year without diminution by reason of any distributions made during the year and without regard to the amount of earnings or profits at the time of the distribution) are sufficient in amount to cover all the distributions made during that year, then each distribution is a taxable dividend. (See article 115-1 of these regulations.) If the distributions made during the taxable year exceed the earnings or profits of such year, then that proportion of each distribution which the total of the earnings or profits of the year bears to the total distributions made during the year shall be regarded as out of the earnings or profits of that year. The portion of each such distribution which is not regarded as out of earnings or profits of the taxable year shall be considered a taxable dividend to the extent of the earnings or profits accumulated since February 28, 1913 and available on the date of the distribution. In any case in which it is necessary to determine the amount of earnings or profits accumulated since February 28, 1913, and the actual earnings or profits to the date of a distribution within any taxable year (whether beginning before January 1, 1936, or, in the case of an operating deficit, on or after that date) cannot be shown, the earnings and profits for the year (or accounting period, if less than a year) in which the distribution was made shall be prorated to the date of the distribution not counting the date on which the distribution was made. The provisions of this article may be illustrated by the following example:

*Example.*—At the beginning of the calendar year 1936, the M Corporation had \$12,000 in earnings and profits accumulated since February 28, 1913. Its earnings and profits for 1936 amounted to \$30,000. During the year, it made quarterly distributions of \$15,000 each. Of each of the four distributions made, \$7,500 (that portion of \$15,000 which the amount of \$30,000, the total earnings and profits of the taxable year, bears to \$60,000, the total distributions made during the year) was paid out of the earnings and profits of the taxable year; and of the first and second distributions, \$7,500 and \$4,500, respectively, were paid out of the earnings and profits accumulated after February 28, 1913, and prior to the taxable year, as follows:

Distributions during 1936		Portion out of earnings or profits of the taxable year	Portion out of earnings accumulated since February 28, 1913, and prior to taxable year	Taxable amount of each distribution
Date	Amount			
Mar. 10.....	\$15,000	\$7,500	\$7,500	\$15,000
June 10.....	15,000	7,500	4,500	12,000
Sept. 10.....	15,000	7,500	—	7,500
Dec. 10.....	15,000	7,500	—	7,500
Total amount taxable as dividends.....		—	—	42,000

Any distribution by a corporation out of earnings or profits accumulated prior to March 1, 1913, or out of increase in value of property accrued prior to March 1, 1913 (whether or not realized by sale or other disposition, and, if realized, whether prior to or on or after March 1, 1913), is not a dividend within the meaning of Title I of the Act.

ART. 115-3. *Stock dividends.*—A distribution made by a corporation to its shareholders in its stock or in rights to acquire its stock shall be treated as a dividend to the full extent that it constitutes income to the shareholders within the meaning of the Sixteenth Amendment to the Constitution. The Supreme Court has pointed out some of the characteristics distinguishing a stock dividend which constitutes income from one which does not constitute income within the mean-

ing of the Constitution.<sup>1</sup> The distinction between a stock dividend which does not, and one which does, constitute income to the shareholder within the meaning of the Sixteenth Amendment to the Constitution is the distinction between a stock dividend which works no change in the corporate entity, the same interest in the same corporation being represented after the distribution by more shares of precisely the same character, and a stock dividend where there either has been a change of corporate identity or a change in the nature of the shares issued as dividends whereby the proportional interest of the shareholder after the distribution is essentially different from his former interest. A stock dividend constitutes income if it gives the shareholder an interest different from that which his former stockholdings represented. A stock dividend does not constitute income if the new shares confer no different rights or interests than did the old—the new certificates plus the old representing the same proportionate interest in the net assets of the corporation as did the old.

*Example (1).*—The X Corporation had an authorized capital stock of \$300,000 of common stock, par value \$10 a share, and \$100,000 of 7 percent cumulative preferred stock, par value \$100 a share, which is preferred as to dividends, has no voting rights, and may be redeemed at any time at \$105 per share. The articles of incorporation provide that the annual dividend on the preferred stock may be paid in cash or, at the option of the corporation, in one share of common stock for each share of preferred. On July 1, 1936, the X Corporation had outstanding \$200,000 of common stock and \$100,000 of preferred stock, earnings and profits of \$60,000 accumulated since February 28, 1913, and earnings and profits of the taxable year amounting to \$15,000. On July 1, 1936, it distributed 1,000 shares of its common stock of an aggregate par value (and fair market value) of \$10,000 to the holders of its preferred stock in payment of the annual dividend on such stock. The stock so distributed constitutes a taxable stock dividend to the holders of the preferred stock.

*Example (2).*—On July 1, 1936, the Y Corporation had an authorized capital stock consisting of 1,000 shares of common stock, par value \$100 a share, of which 500 shares were outstanding. It had earnings and profits of \$40,000 accumulated since February 28, 1913, and \$5,000 of earnings and profits of the taxable year. On July 1, 1936, the Y Corporation issued and divided among its shareholders 250 additional shares of its common stock of a total par value of \$25,000 and transferred an equivalent amount from surplus account to capital stock account. The stock so distributed does not constitute a taxable stock dividend to the shareholders.

*Example (3).*—The Z Corporation had an authorized capital stock of 30,000 shares of common, without par value, and 10,000 shares of 7 percent cumulative preferred stock, par \$100, which is preferred as to dividends, has voting rights and may be redeemed on the first of January or July of any year by the payment of \$105 per share and accrued dividends. On July 1, 1936, the company's issued and outstanding stock amounted to 20,000 shares of common and 6,000 shares of preferred, and it had \$250,000 earnings and profits accumulated since February 28, 1913, and \$90,000 earnings and profits of the taxable year. On July 1, 1936, it paid a dividend on its common stock in preferred stock at the rate of 1/10 share of preferred on each share of common outstanding. The preferred stock so distributed constitutes a taxable stock dividend to the holders of common stock.

ART. 115-4. *Election of shareholders as to medium of payment.*—If the shareholder has the right to an election or option with respect to whether a distribution shall be paid either (a) in money or any other property or (b) in stock

<sup>1</sup> See *Elsner v. Macomber*, 252 U. S. 183 (T. D. 3910, C. B. 3, p. 25); and *Koshland v. Helterling*, 50 Sup. Ct. 767 (Ct. D. 1124, I. E. B. XV-24, p. 7). Compare *United States v. Phillips*, 257 U. S. 156 (T. D. 3270, C. B. 5, p. 37); *Rockefeller v. United States*, 257 U. S. 176 (T. D. 3271, C. B. 6, p. 34); *Cullinan v. Walker*, 252 U. S. 134 (T. D. 3503, C. B. II-2, p. 65); *Weiss v. Stearn*, 255 U. S. 212 (T. D. 3609, C. B. III-2, p. 61); and *Marr v. United States*, 263 U. S. 536 (T. D. 3755, C. B. IV-2, p. 110).

or rights to acquire stock of a class which, if distributed without an election, would not constitute income within the meaning of the Sixteenth Amendment to the Constitution, then the entire distribution is a taxable dividend regardless of—

(1) whether the distribution is actually made, in whole or in part, in stock or in stock rights which, if distributed without election, would not constitute a taxable dividend;

(2) whether the election is exercised or exercisable before or after the declaration of the distribution; or

(3) whether the declaration of the dividend provides that payment will be made in one medium unless the shareholder specifically requests payment in the other.

The term "any other property" as used in this article includes stock of the corporation or rights to acquire its stock, of a class which if distributed without an election, would constitute income, within the meaning of the Sixteenth Amendment to the Constitution. (See article 115-3 of these regulations.)

[SEAL] CHAS. T. RUSSELL,  
*Acting Commissioner of Internal Revenue*

Approved, August 6, 1936.

H. MORGENTHAU, JR.,  
*Secretary of the Treasury*

[F. R. Doc. 1638—Filed, August 7, 1936; 12:54 p. m.]

## DEPARTMENT OF AGRICULTURE.

### Agricultural Adjustment Administration.

S. R.—B-1, Revised—Supplement (r).

#### 1936 AGRICULTURAL CONSERVATION PROGRAM—SOUTHERN REGION

##### BULLETIN NO. 1, REVISED

##### Supplement (r)

Part IV, Classification of Crops, of Southern Region Bulletin No. 1, Revised, is hereby amended by adding the following new paragraph after the first paragraph:

In the case of any farm for which the County Committee finds that the reasonably expected production of soil-depleting crops in 1936 is less than the normal production of such crops for such farm because of drought or other unfavorable weather conditions, emergency feed and forage crops such as sorghums and millets, seeded after July 1, 1936, may be disregarded in 1936 in classifying the use of the land on which grown.

In testimony whereof, H. A. Wallace, Secretary of Agriculture, has hereunto set his hand and caused the official seal of the Department of Agriculture to be affixed in the City of Washington, District of Columbia, this 7th day of August 1936.

[SEAL]

H. A. WALLACE,  
*Secretary of Agriculture*

[F. R. Doc. 1612—Filed, August 7, 1936; 11:45 a. m.]

## DEPARTMENT OF COMMERCE.

### Bureau of Air Commerce.

[Aeronautics Bulletin No. 7-H]

#### AIR COMMERCE REGULATIONS

ALTERATION AND REPAIR OF AIRCRAFT (EDITION OF  
JANUARY 1, 1936)

##### Amendment No. 1

Pursuant to the authority contained in the Air Commerce Act of 1926, as amended (44 Stat. 568) the following portions of Aeronautics Bulletin No. 7-H are hereby revoked:

#### Section 44 (A) (21):

Wet or dry magnetic dust equipment for detecting cracks.

#### Section 46 (A) (22):

Magnetic dust equipment for detecting minute cracks.

Approved to take effect August 10, 1936.

ERNEST G. DRAPER,  
*Acting Secretary of Commerce*

[F. R. Doc. 1633—Filed, August 7, 1936; 12:31 p. m.]

### Bureau of Fisheries.

No. 251-22-6

#### ALASKA FISHERY REGULATIONS

AUGUST 6, 1936.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480), as amended by the act of June 6, 1924 (43 Stat. 464) as amended by the act of June 18, 1926 (44 Stat. 752) as amended by the act of April 16, 1934 (48 Stat. 594), the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251, twenty-second edition, issued under date of February 8, 1936, are hereby amended by the following regulation:

##### PRINCE WILLIAM SOUND AREA

*Salmon fishery.*—Alaska general regulation No. 1 is hereby amended so as to permit the holding of salmon in traps in the Prince William Sound area 72 hours after the termination of the fishing season at 6 o'clock postmeridian on August 5, 1936.

ERNEST G. DRAPER,  
*Acting Secretary of Commerce*

[F. R. Doc. 1606—Filed, August 7, 1936; 10:16 a. m.]

No. 251-22-7

#### ALASKA FISHERY REGULATIONS

AUGUST 7, 1936.

By virtue of the authority contained in the act of June 26, 1906 (34 Stat. 478, 480) as amended by the act of June 6, 1924 (43 Stat. 464) as amended by the act of June 18, 1926 (44 Stat. 752) as amended by the act of April 16, 1934 (48 Stat. 594) the regulations for the protection of the fisheries of Alaska published in Department of Commerce Circular No. 251, twenty-second edition, issued under date of February 8, 1936, are hereby amended by the following regulations:

##### ALASKA PENINSULA AREA

*Salmon fishery.*—Regulation No. 13 is amended so as to permit commercial fishing for salmon until 6 o'clock postmeridian August 11 in all waters east of Kupreanof Point.

##### SOUTHEASTERN ALASKA AREA

##### ICY STRAIT DISTRICT

*Salmon fishery.*—Regulation No. 7 is amended so as to permit commercial fishing for salmon until 6 o'clock postmeridian August 8 in all waters east of a line from Point Adolphus to Point Gustavus.

ERNEST G. DRAPER,  
*Acting Secretary of Commerce*

[F. R. Doc. 1632—Filed, August 7, 1936; 12:31 p. m.]

## FEDERAL TRADE COMMISSION.

### United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of August A. D. 1936.

Commissioners: Charles H. March, Chairman; Garland S. Ferguson, Jr., Ewin L. Davis, W. A. Ayres, Robert E. Freer,

[Docket No. 2835]

IN THE MATTER OF E. G. ZELLERS AND M. W. ZELLERS, COPARTNERS, DOING BUSINESS UNDER THE TRADE NAME ZELLERS LABORATORIES

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, that W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, that the taking of testimony in this proceeding begin on Monday, August 10, 1936, at nine o'clock in the forenoon of that day, in room No. 6, 2nd floor of the Federal Building, Reading, Pennsylvania.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL]

OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 1609—Filed, August 7, 1936; 11:10 a. m.]

*United States of America—Before Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 5th day of August A. D. 1936.

Commissioners: Charles H. March, Chairman; Garland S. Ferguson, Jr., Ewin L. Davis, W. A. Ayres, Robert E. Freer.

[Docket No. 2839]

IN THE MATTER OF LOUIS SCHEAR AND JACK SCHRADER, A CO-PARTNERSHIP, DOING BUSINESS UNDER THE TRADE NAME SCHEAR & SCHRADER

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, that W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, that the taking of testimony in this proceeding begin on Wednesday, August 12, 1936, at nine o'clock in the forenoon of that day (eastern standard time), in room 500, 45 Broadway, New York, N. Y.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission:

[SEAL]

OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 1610—Filed, August 7, 1936; 11:10 a. m.]

*United States of America—Before Federal Trade Commission*

At a regular session of the Federal Trade Commission held at its office in the City of Washington, D. C., on the 5th day of August A. D. 1936.

Commissioners: Charles H. March, Chairman; Garland S. Ferguson, Jr., Ewin L. Davis, W. A. Ayres, Robert E. Freer.

[Docket No. 2865]

IN THE MATTER OF ATLANTIC COAST OIL COMPANY OF NEW YORK, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

It is ordered, that W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

It is further ordered, that the taking of testimony in this proceeding begin on Tuesday, August 11, 1936, at nine o'clock in the forenoon of that day (eastern standard time), in room 500, 45 Broadway, New York.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL]

OTIS B. JOHNSON, *Secretary*.

[F. R. Doc. 1611—Filed, August 7, 1936; 11:10 a. m.]

INTERSTATE COMMERCE COMMISSION.

ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 28th day of July A. D. 1936.

[Docket No. BMC 53]

APPLICATION OF JAMES A. SPROUL FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER

In the Matter of the Application of James A. Sproul, of 94 Forest Hills Street, Boston, Mass., for a Permit (Form BMC 1), Authorizing Operation as a Contract Carrier by Motor Vehicle in the Transportation of Carbonated Beverages, Sugar, Empty Bottles, and Cases in Interstate Commerce From and Between Mills, Mass., to Points Located in the States of Massachusetts, Rhode Island, Connecticut, and New York Over Irregular Routes

It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

It is ordered, That the above-entitled matter be, and it is hereby, referred to Examiner P. R. Naefe for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

It is further ordered, That this matter be set down for hearing before Examiner P. R. Naefe, on the 24th day of August A. D. 1936, at 9 o'clock a. m. (standard time), at the Hotel Lenox, Boston, Mass.;

It is further ordered, That notice of this proceeding be duly given.

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL]

GEORGE B. MCGINTY, *Secretary*.

[F. R. Doc. 1614—Filed, August 7, 1936; 11:50 a. m.]



## ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 28th day of July A. D. 1936.

[Docket No. BMC 53]

APPLICATION OF JAMES A. SPROUL FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER

In the Matter of the Application of James A. Sproul, of 94 Forest Hills Street, Boston, Mass., for a Permit (Form BMC 10), to Extend Its Present Operations filed on Form BMC 1, Authorizing Operation as a Contract Carrier by Motor Vehicle in the Transportation of Non-intoxicating Beverages, Empty Bottles and Cases in Interstate Commerce between Millis, Mass., and Seaside Park, N. J., Over Regular Routes

Also Over Irregular Routes from and between Millis, Mass., to Points Located in the State of New Jersey and the Metropolitan Area of New York City.

A More Detailed Statement of Route or Routes (or Territory) is Contained in Said Application, Copies of Which are on File and May be Inspected at the Office of the Interstate Commerce Commission, Washington, D. C., or Offices of the Boards, Commissions, or Officials of the States Involved in This Application.

*It appearing*, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

*It is ordered*, That the above-entitled matter be, and it is hereby, referred to Examiner P. R. Naefe for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

*It is further ordered*, That this matter be set down for hearing before Examiner P. R. Naefe, on the 24th day of August A. D. 1936, at 9 o'clock a. m. (standard time), at the Hotel Lenox, Boston, Mass.

*It is further ordered*, That notice of this proceeding be duly given;

*And it is further ordered*, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1613—Filed, August 7, 1936; 11:50 a. m.]

## ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of July A. D. 1936.

[Docket No. BMC 2304]

APPLICATION OF THE KAPLAN TRUCKING COMPANY FOR AUTHORITY TO OPERATE AS A COMMON CARRIER

In the Matter of the Application of The Kaplan Trucking Company, a Corporation, of 1607 Woodland Avenue, Cleveland, Ohio, for a Certificate of Public Convenience and Necessity (Form BMC 1), Authorizing Operation as a Common Carrier by Motor Vehicle, in the Transportation of Commodities Generally, in Interstate Commerce, Over the Following Routes

*Route No. 1.*—Between Cleveland, Ohio, and Pittsburgh, Pa., over U. S. Highways 422, 19, and alternate route over Ohio Highway 14, Pa. Highway 51.

*Route No. 2.*—Between Cleveland, Ohio, and Albany, N. Y., over U. S. Highway 20, and alternate route over U. S. Highway 20, Ohio Highways 283, 84, 83.

*Route No. 3.*—Between Cleveland, Ohio, and Butler, Pa., over U. S. Highway 422, and alternate route over U. S. Highway 422, Ohio Highways 14, 18.

*Route No. 4.*—Between Cleveland, Ohio, and Oil City, Pa., over U. S. Highway 422, State Highways 19, 318, 65, 8.

*Route No. 5.*—Between Cleveland, Ohio, and Louisville, Ky., over U. S. Highway 42.

*Route No. 6.*—Between Cincinnati, Ohio, and Pittsburgh, Pa., via Weirton, W. Va., over U. S. Highway 22.

*Route No. 7.*—Between Cincinnati, Ohio, and Butler, Pa., over U. S. Highway 22, Pa. Highways 7, 68.

*Route No. 8.*—From and to Akron, Ohio.

(a) All shipments to Pennsylvania and New York, via Ohio Highway 8 to Cleveland; thence via routes hereinbefore described.

(b) All shipments to Kentucky via Ohio Highway 17, U. S. Highways 224, 42.

*Route No. 9.*—Between Weirton, W. Va., and Albany, N. Y., over U. S. Highways 422, 20, Ohio Highways 7, 46.

*Route No. 10.*—Between Cleveland, Ohio, and Weirton, W. Va., via New Cumberland, W. Va., over U. S. Highway 422, Ohio Highway 7, W. Va. Highway 2, and alternate route over U. S. Highway 30, Ohio Highways 14, 45, W. Va. Highway 2.

*It appearing*, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

*It is ordered*, That the above-entitled matter be, and it is hereby, referred to Examiner A. S. Parker for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

*It is further ordered*, That this matter be set down for hearing before Examiner A. S. Parker, on the 20th day of August A. D. 1936, at 9 o'clock a. m. (standard time), at the Statler Hotel, Cleveland, Ohio;

*It is further ordered*, That notice of this proceeding be duly given;

*And it is further ordered*, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1620—Filed, August 7, 1936; 11:52 a. m.]

## ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of July A. D. 1936.

[Docket No. BMC 2304]

APPLICATION OF THE KAPLAN TRUCKING COMPANY FOR AUTHORITY TO OPERATE AS A COMMON CARRIER

In the Matter of the Application of The Kaplan Trucking Company, a Corporation, of 1607 Woodland Avenue, Cleveland, Ohio, for a Certificate of Public Convenience and Necessity (Form BMC 8), to Extend Its Present Operations Filed on Form BMC 1, Authorizing Operation as a Common Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, Over the Following Routes

*Route No. 1.*—Between Akron, Ohio, and Chicago, Ill., via Tiffin, over Ohio Highway 5, U. S. Highway 224; thence via New Rochester, over Ohio Highway 18, U. S. Highway 23; thence to Chicago, over U. S. Highway 61.

*Route No. 2.*—Between Akron, Ohio, and Detroit, Mich., via Tiffin, over Ohio Highway 5, U. S. Highway 224; thence to Toledo, over Ohio Highway 18, U. S. Highway 23; thence to Detroit, Mich., over U. S. Highways 24, 25.

**Route No. 3.**—Between Akron, Ohio, and Indianapolis, Ind., over U. S. Highways 224, 40, Ohio Highways 5, 4.

**Route No. 4.**—Between Akron, Ohio, and Marion, Ind., via Finley, over Ohio Highway 5, U. S. Highway 224; thence via Wapakoneta, over U. S. Highway 25; thence to Marion, Ind., over Ohio Highway 32, Ind. Highways 67, 18.

**Route No. 5.**—Between Akron, Ohio, and Fort Wayne, Ind., via Fostoria, over Ohio Highway 5, U. S. Highway 224, Ohio Highway 18; thence via Napoleon, over U. S. Highways 23, 6; thence to Fort Wayne, Ind., over U. S. Highway 24.

**Route No. 6.**—Between Akron and Edinburg, Ohio, over Ohio Highway 18.

**Route No. 7.**—From Girard, Ohio, to Oil City, Butler, and Pittsburgh, Pa., over U. S. Highway 62, Ohio Highway 304, Pa. Highways 65, 8.

**Route No. 8.**—Between Cleveland, Ohio, and Chicago, Ill., via Lorain, over Ohio Highways 254, 57; thence to Chicago, over U. S. Highway 6.

**Route No. 9.**—Between Cleveland, Ohio, and Fort Wayne, Ind., via Lorain, over Ohio Highways 254, 57; thence via Napoleon, over U. S. Highway 6; thence to Fort Wayne, Ind., over U. S. Highway 24.

**Route No. 10.**—Between Cleveland, Ohio, and Indianapolis, Ind., over U. S. Highways 42, 40.

**Route No. 11.**—Between Cleveland, Ohio, and Marion, Ind., via Fostoria, Ohio, over U. S. Highways 42, 224, Ohio Highway 18; thence via Wapakoneta, over Ohio Highway 12, U. S. Highway 25; thence to Marion, Ind., over Ohio Highway 32, Ind. Highways 67, 18.

**Route No. 12.**—Between Indianapolis, Ind., and Weirton, W. Va., over U. S. Highways 40, 22.

**Route No. 13.**—Between Cincinnati, Ohio, and Detroit, Mich., via Dayton, over Ohio Highway 4; thence via Fostoria, over U. S. Highway 25, Ohio Highway 12; thence to Detroit, Mich., over U. S. Highways 23, 24, 25.

*It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:*

*It is ordered, That the above-entitled matter be, and it is hereby, referred to Examiner A. S. Parker for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;*

*It is further ordered, That this matter be set down for hearing before Examiner A. S. Parker, on the 20th day of August, A. D. 1936, at 9 o'clock a. m. (standard time), at the Statler Hotel, Cleveland, Ohio;*

*It is further ordered, That notice of this proceeding be duly given;*

*And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.*

By the Commission, division 5.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1621—Filed, August 7, 1936; 11:52 a. m.]

#### ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of July A. D. 1936.

[Docket No. BMC 3833]

APPLICATION OF EARL LENKER FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER

In the Matter of the Application of Earl Lenker, Individual, Doing Business as Dixie Transfer, of 305 North 18th Street, Richmond, Va., for a Permit (Form BMC 1), Authorizing Operation as a Contract Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate

Commerce, between Richmond, Va., and Points Located in the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, and the District of Columbia, Over Irregular Routes

*It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:*

*It is ordered, That the above-entitled matter be, and it is hereby, referred to Examiner B. E. Stillwell for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;*

*It is further ordered, That this matter be set down for hearing before Examiner B. E. Stillwell, on the 28th day of August, A. D. 1936, at 9 o'clock a. m. (standard time), at the Hotel Richmond, Richmond, Va.;*

*It is further ordered, That notice of this proceeding be duly given;*

*And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.*

By the Commission, division 5.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1628—Filed, August 7, 1936; 11:55 a. m.]

#### ORDER

At a session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 24th day of July A. D. 1936.

[Docket No. BMC 15214]

APPLICATION OF DAYS MOTOR LINES, INC., FOR AUTHORITY TO OPERATE AS A COMMON CARRIER

In the Matter of the Application of Days Motor Lines, Inc., of 1309 Miami Street, South Bend, Ind., for a Certificate of Public Convenience and Necessity (Form BMC 1), Authorizing Operation as a Common Carrier by Motor Vehicle in the Transportation of Commodities Generally, With Exceptions, in Interstate Commerce, Over the Following Routes

**Route No. 1-a.**—Between South Bend, Ind., and Cleveland, Ohio, via Toledo, Ohio, over U. S. Highway 20, Ohio Highway 263; thence Sandusky, Ohio, via Port Clinton, Ohio, over Ohio Highways 2, 102, 163; thence Lorain, Ohio, over Ohio Highways 2, 13, 59, 57; thence Cleveland, Ohio, over Ohio Highways 57, 254.

**Route No. 1-b.**—Between South Bend, Ind., and Cleveland, Ohio, via Sandusky, Ohio, over Ind. Highway 2, U. S. Highway 6; thence Lorain, Ohio, over Ohio Highways 2, 13, 59, 57; thence Cleveland, Ohio, over Ohio Highways 57, 254.

**Route No. 2.**—Between Fremont and Oak Harbor, Ohio, over State Highway 19.

**Route No. 3.**—Between Bryan, Ohio, and U. S. Highway 20, over State Highways 34, 49.

**Route No. 4.**—Between South Bend, Ind., and Columbus, Ohio, via Fort Wayne, Ind., Delphos and Kenton, Ohio, over U. S. Highways 2, 30, 30S, Ohio Highway 31.

**Route No. 5.**—Between South Bend, Ind., and Cincinnati, Ohio, via Fort Wayne, Ind., and Van Wert, Ohio, over U. S. Highways 30, 127, Ind. Highway 2.

**Route No. 6.**—Between Hamilton and Columbus, Ohio, via Springfield, Ohio, over U. S. Highway 40, State Highway 4.

**Route No. 7.**—Between Dayton and Eaton, Ohio, over State Highway 11.

**Route No. 8.**—Between South Bend, Ind., and Detroit, Mich., via Elkhart, Ind., and Sturgis, Mich., over U. S. Highways 20, 131, 112, Ind. Highways 19, 15, Mich. Highway 17.

**Route No. 9.**—Between South Bend, Ind., and Lansing, Mich., via Elkhart, Ind., Kalamazoo and Battle Creek, Mich., over U. S. Highways 20, 131, 12, Ind. Highways 19, 15, Mich. Highway 78.

**Route No. 10.**—Between Detroit, Mich., and Toledo, Ohio, over U. S. Highway 25.

**Route No. 11.**—Between South Bend, Ind., and Benton Harbor, Mich., over U. S. Highway 31.

**Route No. 12.**—Between South Bend, Ind., and Milwaukee, Wis., via Michigan City, Ind., and Chicago, Ill., over U. S. Highways 20, 12, 41, Ill. Highways 42-A, 173, Wis. Highways 42, 100, 59, and Trunk Line H.

**Route No. 13.**—Between Milwaukee and Waukesha, Wis., over State Highway 59.

Also, over irregular routes to and from all points located in the States of Indiana, Michigan, Illinois, Wisconsin, and Ohio, and pick-up and delivery service in South Bend and Mishawaka, Ind.

*It appearing,* That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

*It is ordered,* That the above-entitled matter be, and it is hereby, referred to Examiner A. E. Later for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor:

*It is further ordered,* That this matter be set down for hearing before Examiner A. E. Later, on the 28th day of August A. D. 1936, at 9 o'clock a. m. (standard time), at the Hotel Sherman, Chicago, Ill.;

*It is further ordered,* That notice of this proceeding be duly given;

*And it is further ordered,* That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof, and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] **GEORGE B. MCGINTY, Secretary.**

[F. R. Doc. 1627—Filed, August 7, 1936; 11:55 a. m.]

#### ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 28th day of July A. D. 1936.

[Docket No. BMC 17873]

**APPLICATION OF RAYMOND A. DAUGHENBAUGH FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER**

In the Matter of the Application of Raymond A. Daughenbaugh, of R. F. D. No. 2, Millerstown, Pa., for a Permit (Form BMC 10), to Extend Its Present Operations Filed on Form BMC 1, Authorizing Operation as a Contract Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, Over the Following Routes

**Route No. 1.**—Between Philadelphia, Pa., and Baltimore, Md., over U. S. Highway 1.

**Route No. 2.**—Between Philadelphia, Pa., and Cleveland, Ohio, via Lancaster, Harrisburg, and Ebensburg, Pa., over U. S. Highways 30, 230, 22, 422. Return trip via Akron, Ohio, over Ohio Highway 8; thence New Castle, Pa., over U. S. Highway 224; thence Ebensburg, Pa., over U. S. Highway 422; thence Harrisburg, Pa., over U. S. Highway 22; thence Lancaster, Pa., over U. S. Highway 230; thence Philadelphia, Pa., over U. S. Highway 30.

**Route No. 3.**—Between Baltimore, Md., and Cleveland, Ohio, via Harrisburg and Ebensburg, Pa., over U. S. Highways 111, 22, 422. Return trip via Akron, Ohio, over Ohio Highway 8; thence New Castle, Pa., over U. S. Highway 224;

thence Ebensburg, Pa., over U. S. Highway 422; thence Harrisburg, Pa., over U. S. Highway 22; thence Baltimore, Md., over U. S. Highway 111.

**Route No. 4.**—Between New York, N. Y., and Cleveland, Ohio, via Ebensburg, Pa., over U. S. Highways 22, 422. Return trip via Akron, Ohio, over Ohio Highway 8; thence New Castle, Pa., over U. S. Highway 224; thence Ebensburg, Pa., over U. S. Highway 422; thence New York, N. Y., over U. S. Highway 22.

**Route No. 5.**—Between Pittsburgh, Pa., and New York, N. Y., over U. S. Highway 22. Return trip via Trenton, N. J., over U. S. Highway 1; thence Somerville, N. J., over U. S. Highway 206; thence Pittsburgh, Pa., over U. S. Highway 22.

**Route No. 6.**—Alternate route between New York, N. Y., and Pittsburgh, Pa., via Philadelphia, Lancaster, and Harrisburg, Pa., over U. S. Highways 1, 30, 230, 22.

*It appearing,* That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

*It is ordered,* That the above-entitled matter be, and it is hereby, referred to Examiner A. J. Sullivan for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

*It is further ordered,* That this matter be set down for hearing before Examiner A. J. Sullivan, on the 19th day of August A. D. 1936, at 9 o'clock a. m. (standard time), at the offices of the Public Service Commission, Harrisburg, Pa.;

*It is further ordered,* That notice of this proceeding be duly given;

*And it is further ordered,* That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service thereof, and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] **GEORGE B. MCGINTY, Secretary.**

[F. R. Doc. 1615—Filed, August 7, 1936; 11:50 a. m.]

#### ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 28th day of July A. D. 1936.

[Docket No. BMC 21397]

**APPLICATION OF H. J. HAHN FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER**

In the Matter of the Application of H. J. Hahn, of 614 Broadway, Hanover, Pa., for a Permit (Form BMC 1), Authorizing Operation as a Contract Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, between Hanover and Kingston, Pa., via Dillsburg, Lemoyne, and Duncannon, Pa., over U. S. Highways 15, 11; State Highways 194, 5. Also over Irregular Routes from and between Points in the States of Pennsylvania, Ohio, New Jersey, New York, Maryland, and Delaware

*It appearing,* That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

*It is ordered,* That the above-entitled matter be, and it is hereby, referred to Examiner A. J. Sullivan for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

*It is further ordered,* That this matter be set down for hearing before Examiner A. J. Sullivan, on the 19th day of August A. D. 1936, at 9 o'clock a. m. (standard time), at the offices of the Public Service Commission, Harrisburg, Pa.;

*It is further ordered,* That notice of this proceeding be duly given;

*And it is further ordered,* That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1617—Filed, August 7, 1936; 11:51 a. m.]

#### ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 28th day of July A. D. 1936.

[Docket No. BMC 21397]

APPLICATION OF H. J. HAHN FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER

In the Matter of the Application of H. J. Hahn, of 614 Broadway, Hanover, Pa., for a Permit (Form BMC 10), to Extend Its Present Operation Filed on Form BMC 1, Authorizing Operation as a Contract Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, from and between Points in the States of Pennsylvania, Ohio, New Jersey, New York, Maryland, and Delaware

*It appearing,* That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

*It is ordered,* That the above-entitled matter be, and it is hereby, referred to Examiner A. J. Sullivan for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

*It is further ordered,* That this matter be set down for hearing before Examiner A. J. Sullivan, on the 19th day of August A. D. 1936, at 9 o'clock a. m. (standard time), at the offices of the Public Service Commission, Harrisburg, Pa.;

*It is further ordered,* That notice of this proceeding be duly given;

*And it is further ordered,* That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1616—Filed, August 7, 1936; 11:51 a. m.]

#### ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of July A. D. 1936.

[Docket No. BMC 43654]

APPLICATION OF DIXIE OHIO EXPRESS CO. FOR AUTHORITY TO OPERATE AS A COMMON CARRIER

In the Matter of the Application of Dixie Ohio Express Co., a Corporation, of 538 East South Street, Akron, Ohio, for a Certificate of Public Convenience and Necessity (Form BMC 1) Authorizing Operation as a Common Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce, Over the Following Routes

*Route No. 1.*—Between Akron, Ohio, and Atlanta, Ga., via Lodi and Cincinnati, Ohio, Corbin, Ky., Knoxville, Tenn.,

over U. S. Highways 224, 42, 25, 25W; thence to Atlanta, Ga., via Cleveland, Tenn., and Dalton, Ga., over U. S. Highways 11, 41, Tenn. Highway 60, Ga. Highway 71.

(a) Between Akron, Ohio, and Atlanta, Ga., via Lodi, Cincinnati, Ohio, and Corbin, Ky., over U. S. Highways 224, 42, 25; thence to Atlanta, Ga., via Chattanooga, Tenn., over U. S. Highways 25W, 11, 41.

(b) Between Akron, Ohio, and Atlanta, Ga., via Lodi, Ohio, Louisville, Ky., and Nashville, Tenn., over U. S. Highways 224, 42, 31W, 41.

(c) Between Akron, Ohio, and Atlanta, Ga., via Lodi, Ohio, Louisville, Ky., and Nashville, Tenn., over U. S. Highways 224, 42, 31E; thence to Atlanta, Ga., via Knoxville and Chattanooga, Tenn., over U. S. Highways 70, 11, 41.

(d) Between Akron, Ohio, and Atlanta, Ga., via Wooster and Columbus, Ohio, Maysville and Paris, Ky., over U. S. Highways 62, 68, Ohio Highways 5, 3; thence Cleveland, Tenn., via Richmond, Corbin, Ky., and Knoxville, Tenn., over U. S. Highways 227, 25, 25W, 11; thence Atlanta, Ga., via Dalton, Ga., over U. S. Highway 41, Tenn. Highway 60, Ga. Highway 71.

(e) Between Akron, Ohio, and Atlanta, Ga., via Lodi, Delaware, Columbus, and Washington C. H., Ohio, over U. S. Highways 224, 42, 23, 62; thence Atlanta, Ga., via Cincinnati, Ohio, Chattanooga, Tenn., and Birmingham, Ala., over U. S. Highways 22, 27, 11, 78.

(f) Between Akron, Ohio, and Atlanta, Ga., via Lodi, Delaware, Columbus, Ohio, and Maysville, Ky., over U. S. Highways 224, 42, 23, 62; thence Corbin, Ky., via Lexington, Stanford, and Mt. Vernon, Ky., over U. S. Highways 68, 27, 150, 23; thence Atlanta, Ga., via Knoxville and Chattanooga, Tenn., over U. S. Highways 25W, 11, 41.

(g) Between Akron, Ohio, and Atlanta, Ga., via Lodi and Springfield, Ohio, over U. S. Highways 224, 40, 42; thence Nashville, Tenn., via Hamilton, Cincinnati, Ohio, and Louisville, Ky., over U. S. Highways 127, 42, 31W, Ohio Highway 4; thence Atlanta, Ga., via Montgomery and Tuskegee, Ala., over U. S. Highways 31, 80, 29.

(h) Between Akron, Ohio, and Atlanta, Ga., via Lodi, Cincinnati, Ohio, and Lexington, Ky., over U. S. Highways 224, 42, 25; thence via Lawrenceburg, Bardstown, Hodgenville, Ky., over U. S. Highways 60, 62, 68; thence Atlanta, Ga., via Nashville, Jasper, and Chattanooga, Tenn., over U. S. Highways 41, 27, 31E.

(i) Between Akron, Ohio, and Atlanta, Ga., via Barber-ton, Ohio, Charleston, Racine, and Beckley, W. Va., over U. S. Highways 21, 119, Ohio Highway 5, W. Va. Highway 3; thence Atlanta, Ga., via Wytheville, Va., Mount Airy, Elk-ton, and Charlotte, N. C., over U. S. Highways 21, 52, 601, 29.

(j) Between Akron, Ohio, and Atlanta, Ga., via Barber-ton, Ohio, Wytheville, Va., Mount Airy and Elkton, N. C., over U. S. Highways 21, 52, 601, Ohio Highway 5; thence Atlanta, Ga., via Statesville and Asheville, N. C., over U. S. Highways 21, 70, 23.

Off routes served:

Alliance, Hartville, Mogadore, Salem, and Sebring, Ohio.  
Frankfort, Ky.  
Alco, Tenn.

*Route No. 2.*—Between Cleveland, Ohio, and Atlanta, Ga., via Cincinnati, Ohio, Corbin, Ky., and Knoxville, Tenn., over U. S. Highways 42, 25, 25W; thence Atlanta, Ga., via Cleveland, Tenn., and Dalton, Ga., over U. S. Highways 11, 41, Tenn. Highway 60, Ga. Highway 71.

*Route No. 3.*—Between Akron and Cleveland, Ohio, over State Highway 8.

*Route No. 4.*—Between Akron and Cleveland, Ohio, over U. S. Highway 21, State Highway 91.

*Route No. 5.*—Between Akron and Warren, Ohio, over State Highway 5.

*Route No. 6.*—Between Akron and Canton, Ohio, over State Highway 3.

*Route No. 7.*—Between Canton and East Liverpool, Ohio, over U. S. Highway 30.

*Route No. 8.*—Between Akron and Norwalk, Ohio, over State Highway 18.

Route No. 9.—Between Norwalk and Sandusky, Ohio, over U. S. Highway 250.

Route No. 10.—Between Sandusky and Toledo, Ohio, over State Highway 2.

Route No. 11.—Between Toledo and Cincinnati, Ohio, over U. S. Highway 25.

Route No. 12.—Between Akron and Youngstown, Ohio, over State Highway 18.

Route No. 13.—Between Youngstown and Warren, Ohio, over U. S. Highway 422.

Route No. 14.—Between Columbus and Cambridge, Ohio, over U. S. Highway 40.

Route No. 15.—Between Mount Vernon and Jacksontown, Ohio, over State Highway 13.

Route No. 16.—Between Bardstown and Stanford, Ky., over U. S. Highway 150.

Route No. 17.—Between Corbin, Ky., and Junction of U. S. Highway 11, over U. S. Highway 25E.

Route No. 18.—Between Junction of U. S. Highway 11 and U. S. Highway 25E and Bristol, Tenn., over U. S. Highway 11.

Route No. 19.—Between Bristol and Knoxville, Tenn., over U. S. Highway 411.

Route No. 20.—Between Elizabethtown and Nortonville, Ky., over U. S. Highway 62.

Route No. 21.—Between Nortonville, Ky., and Nashville, Tenn., over U. S. Highway 41.

Route No. 22.—Between Bowling Green and Hopkinsville, Ky., over U. S. Highway 68.

Route No. 23.—Between Columbia, Tenn., and Florence, Ala., over U. S. Highway 43.

Route No. 24.—Between Decatur and Sheffield, Ala., over State Highway 20.

Route No. 25.—Between Murfreesboro, Tenn., and Huntsville, Ala., over U. S. Highway 241.

Route No. 26.—Between Huntsville and Athens, Ala., over U. S. Highway 72.

Route No. 27.—Between Pulaski and Fayetteville, Tenn., over State Highway 15.

Route No. 28.—Between Chattanooga, Tenn., and Columbus, Ga., over U. S. Highway 27.

Route No. 29.—Between Cartersville, Ga., and Gadsden, Ala., over U. S. Highway 411.

Route No. 30.—Between Cedartown and Atlanta, Ga., over State Highway 6.

Route No. 31.—Between Carrollton and Atlanta, Ga., over U. S. Highway 78.

Route No. 32.—Between Birmingham and Jasper, Ala., over U. S. Highway 78.

Route No. 33.—Between Birmingham and Tuscaloosa, Ala., over U. S. Highway 11.

Route No. 34.—Between Montgomery and Selma, Ala., over U. S. Highway 80.

Route No. 35.—Between Montgomery and Mobile, Ala., over U. S. Highway 31.

Route No. 36.—Between Montgomery and Dothan, Ala., over U. S. Highway 231.

Route No. 37.—Between McKenzie and Andalusia, Ala., over State Highway 55.

Route No. 38.—Between Atlanta and Thomasville, Ala., over U. S. Highway 19.

Route No. 39.—Between Atlanta and Valdosta, Ga., over U. S. Highway 41.

Route No. 40.—Between Macon and Savannah, Ga., over U. S. Highway 80.

Route No. 41.—Between Atlanta and Portersdale, Ga., over U. S. Highway 78.

Route No. 42.—Between Manchester and Moreland, Ga., over State Highway 41.

Route No. 43.—Between Columbus, Ga., and Montgomery, Ala., over U. S. Highway 80.

Route No. 44.—Between Tallassee and Opelika, Ala., over State Highway 14.

Route No. 45.—Between Athens and Augusta, Ga., over U. S. Highway 78.

Route No. 46.—Between Greenville, S. C., and Augusta, Ga., over U. S. Highway 25.

Route No. 47.—Between Charlotte, N. C., and Columbia, S. C., over U. S. Highway 21.

Route No. 48.—Between Columbia, S. C., and Augusta, Ga., over U. S. Highway 1.

Route No. 49.—Between Springfield, Ohio, and Ohio-Indiana State Line, over U. S. Highway 40.

Route No. 50.—Between Mansfield and Delphos, Ohio, over U. S. Highway 30N.

Route No. 51.—Between Delphos, Ohio, and Ohio-Indiana State Line, over U. S. Highway 30.

Route No. 52.—Between Bristol, Tenn., and Wytheville, Va., over U. S. Highway 11.

*It appearing,* That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

*It is ordered,* That the above-entitled matter be, and it is hereby, referred to Examiner A. S. Parker for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

*It is further ordered,* That this matter be set down for hearing before Examiner A. S. Parker, on the 18th day of August A. D. 1936, at 9 o'clock a. m. (standard time), at the Portage Hotel, Akron, Ohio;

*It is further ordered,* That notice of this proceeding be duly given;

*And it is further ordered,* That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of his notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL]

GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1622—Filed, August 7, 1936; 11:53 a. m.]

#### ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of July A. D. 1936.

[Docket No. BMO 50960]

#### APPLICATION OF JOHN B. COMBS FOR AUTHORITY TO OPERATE AS A COMMON CARRIER

In the Matter of the Application of John B. Combs, Individual, Doing Business as South East Transfer and Storage Company, of 802 D Street SE., Washington, D. C., for a Certificate of Public Convenience and Necessity (Form BMC 8, New Operation), Authorizing Operation as a Common Carrier by Motor Vehicle in the Transportation of Household Goods, in Interstate Commerce, Between Washington, D. C., and Points in Delaware, Maryland, Pennsylvania, North Carolina, South Carolina, and Virginia, Over Irregular Routes

*It appearing,* That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

*It is ordered,* That the above-entitled matter be, and it is hereby, referred to Examiner C. I. Kephart for hearing, and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

*It is further ordered,* That this matter be set down for hearing before Examiner C. I. Kephart, on the 25th day of August A. D. 1936, at 10 o'clock a. m. (standard time), at the office of the Interstate Commerce Commission, Washington, D. C.;



*It is further ordered,* That notice of this proceeding be duly given;

*And it is further ordered,* That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1623—Filed, August 7, 1936; 11:54 a. m.]

#### ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of July A. D. 1936.

[Docket No. BMC 59801]

APPLICATION OF J. NORMAN GEIPE, INCORPORATED, FOR AUTHORITY TO OPERATE AS A COMMON CARRIER

In the Matter of the Application of J. Norman Geipe, Incorporated, of 524 West Lafayette Avenue, Baltimore, Md., for a Certificate of Public Convenience and Necessity (Form BMC 1), Authorizing Operation as a Common Carrier by Motor Vehicle in the Transportation of Commodities Generally, with Exceptions, in Interstate Commerce, Over the Following Routes

*Route No. 1.*—Between Baltimore, Md., and Philadelphia, Pa. (or Camden, N. J.), over U. S. Highway 1, Delaware River Bridge or Ferry to Camden, N. J., with alternate routes via Bel Air, Aberdeen, and Elkton, Md., Wilmington and New Castle, Del., Pennsville, Penns Grove, Salem, and Camden, N. J., over U. S. Highways 1, 13, 40, 130, Md. Highway 22, Del. Highway 2, N. J. Highways 49, 45, and the New Castle-Pennsville Ferry.

*Route No. 2.*—Between Baltimore, Md., and Waynesboro, Pa., via Hagerstown, Md., over U. S. Highway 40, State Highway 60.

*Route No. 3.*—Between Amcelle, Md., and Philadelphia, Pa. (or Camden, N. J.), via Cumberland, Hagerstown, and Baltimore, Md., over U. S. Highways 220, 40; thence Philadelphia, Pa. (or Camden, N. J.), as set out in Route No. 1.

*Route No. 4.*—Between Waynesboro and Philadelphia, Pa. (or Camden, N. J.), via Hagerstown and Baltimore, Md., over State Highway 60, U. S. Highway 40; thence Philadelphia, Pa. (or Camden, N. J.), as set out in Route No. 1.

*Route No. 5.*—Between Amcelle, Md., and Washington, D. C. (or Alexandria, Va.), via Cumberland and Baltimore, Md., over U. S. Highways 220, 40, 1, with alternate route via Cumberland and Frederick, Md., over U. S. Highways 220, 40, 240, 1.

*Route No. 6.*—Between Waynesboro, Pa., and Washington, D. C. (or Alexandria, Va.), via Hagerstown and Baltimore, Md., over U. S. Highways 40, 1, State Highway 60, with alternate route via Hagerstown and Frederick, Md., over U. S. Highways 40, 240, 1, State Highway 60.

*It appearing,* That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

*It is ordered,* That the above-entitled matter be, and it is hereby, referred to Examiner C. I. Kephart for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

*It is further ordered,* That this matter be set down for hearing before Examiner C. I. Kephart, on the 26th day of August, A. D. 1936, at 10 o'clock a. m. (standard time), at the office of the Interstate Commerce Commission, Washington, D. C.;

*It is further ordered,* That notice of this proceeding be duly given;

*And it is further ordered,* That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1624—Filed, August 7, 1936; 11:54 a. m.]

#### ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 29th day of July A. D. 1936.

[Docket No. BMC 59802]

APPLICATION OF J. NORMAN GEIPE, INCORPORATED, FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER

In the Matter of the Application of J. Norman Geipe, Incorporated, of 524 West Lafayette Avenue, Baltimore, Md., for a Permit (Form BMC 1), Authorizing Operation as a Contract Carrier by Motor Vehicle in the Transportation of Household and Other Goods and Commodities in Interstate Commerce, Over the Following Routes

*Route No. 1.*—Between Baltimore, Md., and Philadelphia, Pa., over U. S. Highways 40, 13, with alternate route over U. S. Highways 40, 130, and ferry from Camden, N. J., to Philadelphia.

*Route No. 2.*—Between Baltimore, Md., and Maywood, N. J., over U. S. Highways 40, 13, 1, N. J. Highway 2, with alternate route over U. S. Highways 40, 130, 1, N. J. Highway 2.

And also, from, and between points in the States of Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and District of Columbia, over irregular routes.

*It appearing,* That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

*It is ordered,* That the above-entitled matter be, and it is hereby, referred to Examiner C. I. Kephart for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

*It is further ordered,* That this matter be set down for hearing before Examiner C. I. Kephart, on the 26th day of August A. D. 1936, at 10 o'clock a. m. (standard time), at the office of the Interstate Commerce Commission, Washington, D. C.;

*It is further ordered,* That notice of this proceeding be duly given;

*And it is further ordered,* That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1623—Filed, August 7, 1936; 11:55 a. m.]

## ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 28th day of July A. D. 1936.

[Docket No. BMC 72139]

APPLICATION OF ARTHUR C. BARWOOD FOR AUTHORITY TO OPERATE AS A CONTRACT CARRIER

In the Matter of the Application of Arthur C. Barwood, Individual, Doing Business as Film Transportation Co., of Box 106, Hanover, N. H., for a Permit (Form BMC 1) Authorizing Operation as a Contract Carrier by Motor Vehicle in the Transportation of Special Commodities Only, in Interstate Commerce, in the States of New Hampshire, Maine, Massachusetts, and Vermont, Over the Following Routes

Route No. 1.—Between Boston, Mass., and White River Junction, Vt., via Nashua and Keene, N. H., and Brattleboro, Vt.

Route No. 2.—Between White River Junction and Burlington, Vt.

Route No. 3.—Between Lowell, Mass., and Lewiston, Maine.

A more detailed statement of route or routes (or territory) is contained in said application, copies of which are on file and may be inspected at the office of the Interstate Commerce Commission, Washington, D. C., or officers of the boards, commissions, or officials of the States involved in this application.

It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner;

It is ordered, That the above-entitled matter be, and it is hereby, referred to Examiner P. R. Naefe for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor;

It is further ordered, That this matter be set down for hearing before Examiner P. R. Naefe, on the 24th day of August A. D. 1936, at 9 o'clock a. m. (standard time), at the Hotel Lenox, Boston, Mass.;

It is further ordered, That notice of this proceeding be duly given;

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1618—Filed, August 7, 1936; 11:51 a. m.]

## ORDER

At a Session of the Interstate Commerce Commission, Division 5, held at its office in Washington, D. C., on the 28th day of July A. D. 1936.

[Docket No. BMC 86023]

APPLICATION OF ALBERT J. HEBERT FOR AUTHORITY TO OPERATE AS A COMMON CARRIER

In the Matter of the Application of Albert J. Hebert, of Cornwall, Vt., for a Certificate of Public Convenience and Necessity (Form BMC 8, New Operation), Authorizing Operation as a Common Carrier by Motor Vehicle in the Transportation of Commodities Generally, in Interstate Commerce From and Between Burlington, Vt., and Points Located in the States of New Hampshire, Massachusetts, Connecticut, New York, New Jersey, and Pennsylvania, Over Irregular Routes

It appearing, That the above-entitled matter is one which the Commission is authorized by the Motor Carrier Act, 1935, to refer to an examiner:

It is ordered, That the above-entitled matter be, and it is hereby referred to Examiner P. R. Naefe for hearing and for the recommendation of an appropriate order thereon, to be accompanied by the reasons therefor.

It is further ordered, That this matter be set down for hearing before Examiner P. R. Naefe, on the 20th day of August, A. D. 1936, at 9 o'clock a. m. (standard time) at the U. S. Court Rooms, Montpelier, Vt.,

It is further ordered, That notice of this proceeding be duly given;

And it is further ordered, That any party desiring to be notified of any change in the time or place of the said hearing (at his own expense if telegraphic notice becomes necessary) shall advise the Bureau of Motor Carriers of the Commission, Washington, D. C., to that effect by notice which must reach the said Bureau within 10 days from the date of service hereof and that the date of mailing of this notice shall be considered as the time when said notice is served.

By the Commission, division 5.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1619—Filed, August 7, 1936; 11:52 a. m.]

[Fourth Section Application No. 16458]

CRUDE RUBBER FROM NORTH ATLANTIC PORTS

AUGUST 6, 1936.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act:

Filed by: W. S. Cullett and Frank Van Ummersen, Agents.  
Commodities involved: Crude rubber, carloads, minimum weight, 60,000 pounds.

From: North Atlantic United States ports.

To: Points in Trunk Line and Central Freight Association territories.

Grounds for relief: Water and truck competition and to maintain grouping.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1625—Filed, August 7, 1936; 11:54 a. m.]

[Fourth Section Application No. 16459]

COAL FROM ILLINOIS, INDIANA, AND KENTUCKY TO IOWA

AUGUST 6, 1936.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act:

Filed by: R. A. Sperry, Agent.

Commodity involved: Bituminous coal, carloads.

From: Mines in southern Illinois, Indiana, and western Kentucky.

To: Points in Iowa.

Grounds for relief: Carrier competition and to maintain grouping.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1626—Filed, August 7, 1936; 11:54 a. m.]

Fourth Section Application No. 16460

GASOLINE FROM OMAHA, NEB., TO IOWA POINTS

AUGUST 7, 1936.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: Illinois Central Railroad Company.  
Commodity involved: Gasoline, in tank cars.  
From: Omaha, Neb.  
To: Onawa, Sioux City, and Correctionville, Ia.  
Grounds for relief: Circuitous route.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1630—Filed, August 7, 1936; 11:56 a. m.]

[Fourth Section Application No. 16461]

TOBACCO FROM AND TO THE SOUTH

AUGUST 7, 1936.

The Commission is in receipt of the above-entitled and numbered application for relief from the long-and-short-haul provision of section 4 (1) of the Interstate Commerce Act.

Filed by: J. E. Tifford, Agent.  
Commodity involved: Tobacco, unmanufactured, in carloads.  
Between: Points in the South, and between points in the South and points in Official territory.  
Grounds for relief: Carrier competition.

Any interested party desiring the Commission to hold a hearing upon such application shall request the Commission in writing so to do within 15 days from the date of this notice; otherwise the Commission may proceed to investigate and determine the matters involved in such application without further or formal hearing.

By the Commission, division 2.

[SEAL] GEORGE B. MCGINTY, Secretary.

[F. R. Doc. 1631—Filed, August 7, 1936; 11:56 a. m.]

## SECURITIES AND EXCHANGE COMMISSION.

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 3rd day of August A. D. 1936.

[File No. 2-2324]

IN THE MATTER OF REGISTRATION STATEMENT OF THE PETERSEN ENGINE COMPANY, INC.

ORDER FIXING TIME AND PLACE OF HEARING UNDER SECTION 8 (D) OF THE SECURITIES ACT OF 1933, AS AMENDED, AND DESIGNATING OFFICER TO TAKE EVIDENCE

It appearing to the Commission that there are reasonable grounds for believing that the registration statement filed by The Petersen Engine Company, Inc., under the Securities Act of 1933, as amended, includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading,

It is ordered, that a hearing in this matter under Section 8 (d) of said Act, as amended, be convened on August 14, 1936, at 10 o'clock in the forenoon at the Regional Office of the Commission, 120 Broadway, New York, N. Y., and con-

tinue thereafter at such times and places as the officer hereinafter designated may determine; and

It is further ordered, that Robert P. Reeder, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

Upon the completion of testimony in this matter, the officer is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 1634—Filed, August 7, 1936; 12:32 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of August A. D. 1936.

[Filed on July 7, 1936]

IN THE MATTER OF JOHN P. BOOTH OFFERING SHEET OF A ROYALTY INTEREST IN DERBY SEEDLE LEASE

ORDER TERMINATING PROCEEDING (UNDER RULE 340) BY WITHDRAWAL

The Securities and Exchange Commission having due regard to the public interest and the protection of investors and finding that the offeror has by letter dated July 25, 1936, received by the Commission on July 27, 1936, represented that no sales of any of the interests covered by the above offering sheet have been made and has requested that the said offering sheet be withdrawn, consents to the withdrawal thereof, and it is so ordered.

It is further ordered that the Suspension Order, Order for Hearing and Order Designating a Trial Examiner heretofore entered in this proceeding on the 14th day of July 1936 be and the same are hereby revoked and the said proceeding terminated.

By the Commission.

[SEAL]

FRANCIS P. BRASSOR, Secretary.

[F. R. Doc. 1637—Filed, August 7, 1936; 12:32 p. m.]

*United States of America—Before the Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of August A. D. 1936.

IN THE MATTER OF ANDREW J. BARRETT OFFERING SHEET OF A ROYALTY INTEREST IN PHILLIPS ET AL. GREGG FARM

SUSPENSION ORDER, ORDER FOR HEARING (UNDER RULE 304 (A)), AND ORDER DESIGNATING A TRIAL EXAMINER

The Securities and Exchange Commission, having reasonable grounds to believe, and therefore alleging, that the offering sheet filed by Andrew J. Barrett on the 1st day of August 1936, covering a certain royalty interest in the property described therein as Phillips et al Gregg Farm is incomplete or inaccurate in the following material respects, to wit:

In that the estimation of recoverable oil in Division III is stated to be based on the fact that the producing horizon of the Gregg tract is the same as that of the other leases mentioned as a basis of comparison. Some of the said other leases do not have the same producing zones.

It is ordered, pursuant to Rule 340 (a) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the effectiveness of the filing

of said offering sheet be, and the same hereby is, suspended until the 5th day of September 1936; that an opportunity for hearing be given to the said Andrew J. Barrett for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be incomplete or inaccurate, and whether the said order of suspension should be revoked or continued; and

It is further ordered, that Charles S. Lobingier, an officer of the Commission be, and he hereby is, designated as Trial Examiner to preside at such hearing, to adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to such offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered, that the taking of testimony in this proceeding begin on the 21st day of August 1936, at 10:00 o'clock in the forenoon of that day at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said officer may designate.

Upon the completion of testimony in this matter the officer is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 1636—Filed, August 7, 1936; 12:32 p. m.]

*United States of America—Before the Securities  
and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of August A. D. 1936.

IN THE MATTER OF PENN PETROLEUM CORPORATION OFFERING SHEET OF A WORKING INTEREST IN SOUTH 100 ACRES, BLOCK 493

SUSPENSION ORDER, ORDER FOR HEARING (UNDER RULE 340 (A)), AND ORDER DESIGNATING A TRIAL EXAMINER

The Securities and Exchange Commission, having reasonable grounds to believe, and therefore alleging, that the offering sheet filed by Penn Petroleum Corporation on the 1st day of August 1936 covering a certain working interest in the property described therein as South 100 Acres, Block 493, is incomplete or inaccurate in the following material respects, to wit:

1. In that the computation of amount of participation of each fractional interest in gas is miscalculated in Item 1, Division II.

2. In that Item 5, Division II, does not indicate what has been done to comply with the covenants and conditions of the lease therein referred to.

3. In that Item 11, Division II, has omitted answers required as to dates, sand thickness, content, and initial production.

4. In that Item 16 (b), Division II, does not show whether the tax will be deducted proportionately, or by whom.

5. In that the answer to Item 18, Division II, is not responsive and is not supported by the map, Exhibit A.

6. In that Item 24 (c), Division II, does not give an informative answer.

7. In that Exhibit A is incomplete under Rule 331 (4) of the Commission.

8. In that Division I states J. J. Feeney & Company is the offeror.

It is ordered, pursuant to Rule 340 (a) of the Commission's General Rules and Regulations under the Securities Act of 1933, as amended, that the effectiveness of the filing

of said offering sheet be, and the same hereby is, suspended until the 5th day of September 1936; that an opportunity for hearing be given to the said Penn Petroleum Corporation for the purpose of determining the material completeness or accuracy of the said offering sheet in the respects in which it is herein alleged to be incomplete or inaccurate, and whether the said order of suspension should be revoked or continued; and

It is further ordered that Charles S. Lobingier, an officer of the Commission be, and he hereby is, designated as Trial Examiner to preside at such hearing, to adjourn the said hearing from time to time, to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, consider any amendments to such offering sheet as may be filed prior to the conclusion of the hearing, and require the production of any books, papers, correspondence, memoranda, or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law; and

It is further ordered that the taking of testimony in this proceeding begin on the 21st day of August 1936, at 11:00 o'clock in the forenoon of that day at the office of the Securities and Exchange Commission, 18th Street and Pennsylvania Avenue, Washington, D. C., and continue thereafter at such times and places as said officer may designate.

Upon the completion of testimony in this matter the officer is directed to close the hearing and make his report to the Commission.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary*.

[F. R. Doc. 1635—Filed, August 7, 1936; 12:32 p. m.]

Tuesday, August 11, 1936

No. 107

TREASURY DEPARTMENT.

Bureau of Customs.

[T. D. 48464]

CUSTOMS REGULATIONS AMENDED—HOURS OF BUSINESS

ARTICLE 1445 (A) AND ARTICLE 1446 (B); CUSTOMS REGULATIONS OF 1931, RELATIVE TO HOURS OF BUSINESS OF CUSTOMHOUSES AND HOURS OF DUTY OF CUSTOMS EMPLOYEES, AMENDED

To Collectors of Customs and Others Concerned:

Article 1445 (a) of the Customs Regulations of 1931, as amended by T. D. 48198,<sup>1</sup> is further amended to read as follows:

(a) Customs offices shall be open between the hours of 9:00 a. m. and 4:30 p. m. on all days of the year, except Saturdays, Sundays, and national holidays, and on Saturdays, except national holidays, from 9:00 a. m. to 1:00 p. m., unless a variation in these hours is necessitated by local conditions and is approved by the Commissioner of Customs. So far as the transaction of public business will permit, customs employees may be excused on State holidays: *Provided, however,* That no such employee shall be excused from performing four hours' work, exclusive of time for luncheon, on Saturdays, without being charged the time absent, because of any State law granting part holidays on Saturdays. (See article 1446 (e)).

Article 1446 (b) of the Customs Regulations of 1931, is amended by inserting the words "samplers" and "laborers" with a comma after each word, after the words "sugar samplers" in line three thereof; and by inserting after "p. m." in line six a comma and the words "one-half hour for lunch."

[SEAL]

FRANK DOW,  
*Acting Commissioner of Customs.*

Approved, August 6, 1936.

WAYNE C. TAYLOR,  
*Acting Secretary of the Treasury.*

[F. R. Doc. 1668—Filed, August 10, 1936; 12:51 p. m.]

<sup>1</sup> F. R. 160.